

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

23.09.2021
Court No.01
Item No.19
Avijit Mitra

CRM 554 of 2021

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure;

And

In Re: Tufan Mitra @ Sishir Mitra

...Petitioner

Mr. Hillol Saha Podder

...For the Petitioner

Mr. Niloy Chakraborty,
Mr. Sagnik Sankar Sikdar

...For the State

Apprehending arrest in connection with Kharibari Police Station Case No.63 of 2021 dated 27.02.2021 under sections 376/354B/506/509/34 of the Indian Penal Code and Sections 4/6 of the Indecent Representation of Woman (Prohibition) Act, 1986, the present application has been preferred.

Mr. Saha Podder, learned advocate appearing for the petitioner submits that the ingredients of Section 376 of the Indian Penal Code do not stand satisfied. No such overt act has been attributed to the petitioner. In the said conspectus, custodial interrogation of the petitioner is not warranted, more so when, upon completion of investigation chargesheet has been submitted.

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents including the statement of the victim lady, as recorded under Section 164 of the Code.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, the gravity of the offence, its ramifications and the extent of the complicity of the petitioner in the alleged offence, we are not inclined to exercise any discretion in his favour and as such, his prayer is refused.

Accordingly, the application being C.R.M. No.554 of 2021 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Abhijit Gangopadhyay, J.) (Tapabrata Chakraborty, J.)