

06.07.2021

Court No.28
Item No. JB-02
snandy/adas

(antibail - granted)

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

(Via Video Conference)

CRM 670 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 21.06.2021 in connection with Alipurduar Women Police Station Case No. 46 of 2021, dated 01.04.2021 under Sections 376/417/506/34 of the Indian Penal Code.

and

In the matter of : **Prasenjit Roy**

.....Petitioner

Mr. Sudhindra Da, Advocate

Mr. Arnab Saha, Advocate

.....for the Petitioner

Mr. Aditi Sankar Chakraborty, learned A.P.P.

Mr. Aniruddha Biswas, Advocate

.....for the State

Apprehending arrest in connection with Alipurduar Women Police Station Case No. 46 of 2021, dated 01.04.2021 under Sections 376/417/506/34 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail.

Learned Advocate for the petitioner submits that the petitioner has been falsely implicated in this case simply for developing a physical relationship with the victim (divorcee). Admittedly, the petitioner developed physical relationship and enjoyed with the victim entering into a consensual sex. Such relationship, according to the petitioner, even continued for about five to six months. Since the petitioner refused to marry the victim/the de facto complainant,

the case has been falsely instituted.

Learned Advocate for the State raises objection against the prayer for anticipatory bail. It is submitted that the petitioner deliberately enjoyed with the victim without getting her married, and thus cheated the victim even after a promise to marry.

Our attention is drawn to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure and the statement of the victim given to the Doctor, wherein the victim herself specifically disclosed that there was a consensual sex between the two.

Having considered the submissions of both sides and bearing in mind the physical relationship of the petitioner with the victim, which continued even for five to six months, and the consensual sex of the parties, we feel that custodial detention of the petitioner is not justified.

The prayer of anticipatory bail is **allowed**.

Accordingly, in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), with two registered sureties of like amount each, to the satisfaction of the arresting officer of the concerned police station and on further condition that the petitioner shall meet the Investigating Officer of the case once in week and on further

condition as laid down under Section 438(2) of the Code of Criminal Procedure.

The application for anticipatory bail being **CRM 670 of 2021** is thus **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)