

24.08.2021

Court No.28
Item No.25
(REJECTED)

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

(Via Video Conference)

CRM 692 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Rajganj Police Station Case No. 304 of 2019 dated 18.09.2019 under Sections 448/376/342/323/354/506/109 of the Indian Penal Code;

And

In the matter of : **Tapash Sarkar @ Tapas Sarkar.**

...Petitioner

Mr. Sudip Guha.

...For the Petitioner

**Mr. Tapan Bhattacharjee,
Mr. Sagnik Shankar Sikdar.**

...For the State.

The Advocate on Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

Apprehending arrest in connection with Rajganj Police Station Case No. 304 of 2019 dated 18.09.2019 under Sections 448/376/342/323/354/506/109 of the Indian Penal Code, the petitioner has filed the instant application for anticipatory bail.

Taking advantage of delayed registration of the First Information Report, the petitioner has applied for an anticipatory bail on the ground that this case has been falsely imposed upon him though the relation between the victim lady and the petitioner is of maternal aunt and the nephew.

It is further submitted that an illicit relation developed between them and the moment the maternal uncle came to know of the said fact, the First Information Report has been registered.

Learned Advocate for the State opposes the prayer for

anticipatory bail and submits that the victim was abducted by the petitioner and was repeatedly raped, which would be evident from the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure.

After hearing the respective submissions and upon perusal of the statement of the victim lady recorded under Section 164 of the Code of Criminal Procedure, the complicity of the petitioner to the alleged offence cannot be ruled out at this stage. We find that it is not a case where the petitioner should get benefit of Section 438 of the Code of Criminal Procedure even after charge-sheet has been submitted.

The application for anticipatory bail being CRM 692 of 2021 is **rejected**.

(Harish Tandon, J.)

(Md. Nizamuddin, J.)