

30.11.2021

Item No.23

Ct.No.1

dc./gsd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. 970 of 2021

(Via Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Bhaktinagar PS Case No. 449 of 2021 dated 1.5.2021 under Sections 365/376 of the Indian Penal Code read with Section 6 of the POCSO Act, 2012.

And

In the matter of : **Ashwini Kumar Ghosh @ Ashwini Ghosh**

... Petitioner.

Mr. Sayan De
Mr. Manas Dutta Chowdhury
Mr. Sampad Das
Ms. Esha Achrya
Mr. Kanjilal Sayan

... for the petitioner

Mr. Niloy Chakraborty
Mr. S. S. Sikdar

... For the State.

Learned Advocate for the petitioner submits that the genesis of the case relates to certain incidents which were five years prior to the date of registration of the FIR. According to the Learned Advocate for the petitioner, the defacto-complainant is presently 21 years of age.

Learned Advocate for the State does not disagree with the submission made by the Learned Advocate for the petitioner that the incidents referred to in the FIR relates

back to an incident of five years and the relationship existing thereafter. Certain information has been furnished regarding subsequent developments in the relationship. However, we ignore the fact for the time being.

Having regard to the contents available before us from the materials on record, we are of the view that custodial detention of the petitioner may not be warranted in the facts of the present case.

Accordingly, we **allow** the application for anticipatory bail and direct that in the event of arrest, the petitioner, namely **Ashwini Kumar Ghosh @ Ashwini Ghosh** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition the petitioner shall make himself available on each and every date so specified by the Learned Special Court for the purpose of the case. In default, the Learned Trial Court will be at liberty to exhaust the process of law.

The application for anticipatory bail, being CRM 970 of 2021 is disposed of.

All parties shall act on the server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)