

24.02.22
(S.R.)
Sl.06
Ct.32
(Jalpaiguri
C.B.)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side
Via video conference

CRM(A) No.92 of 2022

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Bagdogra** Police Station Case No.666 of 2020 dated 18/11/2020 under Sections 376/417 of the Indian Penal Code;

And

In re: Sailendra Singha

... petitioner.

Mr. Nabankur Paul

... for the petitioner.

Mr. Abhijit Sarkar

Mr. Tapan Bhattacharjee

... for the State.

Mr. Paul, learned lawyer appearing for the petitioner submitted that both the parties are major and mature. Their relationship was consensual in nature. There was no iota of intention of the present petitioner to deceive the victim girl in any manner, from the inception of the relationship. There is no incriminating element implicating the present petitioner in the alleged offence. Accordingly, he prays for anticipatory bail on any stringent condition.

Per contra, Mr. Sarkar, learned lawyer appearing for the State submitted that strong incriminating elements are there against the present petitioner, as it appears from the statements of the victim girl recorded under Section 164 of the Code. He further submitted that the petitioner is absconding for long, for which he could not be taken into custody. In our query, he frankly admitted that the police authorities have not taken any step to issue warrant of arrest to get him into custody in last two years. Investigation is still pending, as he submitted. However, considering the seriousness of the offence, he strongly opposed grant of anticipatory bail.

We have heard rival submissions and perused the case diary. From the statement of the victim girl, as recorded under Section 164 of the Code, it appears that the relationship between the victim and the petitioner was consensual in nature and both are major. Family members of both the parties negotiated marriage in between but the same fell through. On perusal of case diary and other materials, particularly, the statement of the victim girl, we find that no overt act of deception, from the inception, has been attributed to the present petitioner in the alleged offence.

Therefore, we are inclined to allow anticipatory bail on furnishing a bond of Rs.10,000/- 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 with a further condition that the petitioner shall meet with the Investigation Officer once in a week till investigation is pending and shall attend the Learned Court below on all the dates as specified for hearing.

It is further directed that the petitioner shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

The application for anticipatory bail being CRM(A) No.92 of 2022 is, accordingly, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)