

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

04.05.2022

Item no.26
Court No.01
Avijit Mitra

CRM (A) 213 of 2022

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

And

In Re : Kanak Roy

.... petitioner

Mr. Kunaljit Bhattacharjee,
Mr. Abhisek Palit

....for the petitioner

Mr. Arun Kumar Sarkar,
Mr. Sagnik Sankar Sikdar

..... for the State

Apprehending arrest in connection with Dhupguri Police Station Case No.329 of 2021 dated 21st August, 2021 under Sections 363/365/376(3) and 506 of the Indian Penal Code, the present application has been preferred.

Mr. Bhattacharjee, learned advocate appearing for the petitioner submits that there was a love-relationship between the petitioner and the victim girl and the allegations as levelled against the petitioner are unfounded. The victim girl willingly left her residence and accompanied the petitioner and subsequently they have also married.

Drawing our attention to a document annexed at page 8 of the application, he submits that the fact that the petitioner and the victim girl had entered into a relationship has been accepted by their respective families and it has been agreed that

till the victim girl attains majority she would be residing in her parental house. In view thereof, custodial interrogation may not be necessary.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary including the statement of the victim as recorded under Sections 161 and 164 of the Code.

Prima facie, there are certain inconsistencies in the statement of the victim girl, as recorded under Sections 161 and 164 of the Code. She had also refused medical. Considering the nature of allegations, the contents of the representation of the *defacto* complainant annexed at page 8 of the application and the possible extent of complicity of the petitioner in the alleged offence, we are of the opinion that custodial interrogation of the petitioner may not be necessary.

Accordingly, we direct that in the event of arrest, the petitioner namely, **Kanak Roy**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 appear before the learned Court below on all the dates as specified for hearing.

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

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned Court below shall be at liberty to cancel petitioner's bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail CRM (A) 213 of 2022 is disposed of.

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

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J.)