

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

06.05.2022
Court No.01
rpan/ 06

CRM (A) 226 of 2022

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

And

In Re: Swapan Ch Dutta @ Swapan Dutta

- Petitioner

Mr. Hillol Saha Podder,
Mr. Sayantan Bhowmik,
Ms. Mousumi Das
...for the Petitioner.
Mr. Ujjwal Luksom
...for the State.

Apprehending arrest in connection with Mathabhanga Police Station Case No.19 of 2022 dated 19.01.2022 under Sections 6/14/17 of the Protection of Children from Sexual Offences Act, 2012, the present application has been preferred.

Mr. Saha Podder, learned advocate appearing for the petitioner submits that the petitioner is the father of the principal accused. The ingredients of Sections 06/14/17 of the POCSO Act are not attracted against him. The petitioner's wife has already been granted anticipatory bail by the learned court below. The principal accused, being the petitioner's son has already been arrested. Upon completion of investigation charge-sheet has also been submitted and in view thereof, custodial interrogation of the petitioner may not be necessary.

Mr. Luksom, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention our

attention to the statements of the victim as recorded under Sections 161 and 164 of the Code as well as the medical examination report.

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

Prima facie, the provisions of the POCSO Act are not attracted against the petitioner. Considering the nature of allegations and since the principal accused has already been arrested, we are of the opinion that custodial interrogation of the petitioner is not necessary, more so when, upon completion of investigation charge-sheet has been submitted. We also do not find that there is any possibility that the petitioner would flee from justice or delay the trial by abscondance.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Swapan Ch Dutta @ Swapan Dutta** shall be released on bail upon 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.

It is further directed that the petitioner shall appear before the learned Court below on all the dates specified for hearing and shall not intimidate the witnesses and/or tamper with the evidence in any manner whatsoever.

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

The application for anticipatory bail, being CRM (A) 226 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.)