

SL. 06
26.05.2022
Court No. 05
S Das/AJ

(Allowed)

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side**

**CRM (A) 277 of 2022
(Through Video Conference)**

In Re: - An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 23.05.2022 in connection with Pradhannagar Police Station Case No.214 of 2022 dated 22.03.2022 under Sections 6 of the POCSO Act, 2012.

And

In the matter of: **Sagar Karki Chetri.**

.... Petitioner.

Mr. Kishore Dutta, Ld. Senior Advocate,
Mr. Sourav Chatterjee,
Mr. Karan Dudewala,
Mr. Ayan Poddar,
Ms. Poulami Bhowmick.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Biswarup Roy.

... for the State.

Mr. Ranadeb Sengupta,
Mr. Avrojoyti Das,
Mr. Pritam Roy.

.....for the de-facto complainant.

Heard learned Counsel appearing for the parties.

It is contended by learned Counsel appearing for the petitioner that the alleged petitioner has been arrested under Section 6 of the Protection of Children from Sexual Offences Act. The victim herself was about 21 years of age at the relevant juncture, which is substantiated by the data uploaded by her on a dating application. It is further contended that, as per the said mobile application, of which both the petitioner

and the victim were users, the victim girl gave herself out as an adult studying in a University.

It is also contended that since the petitioner had been enjoying anticipatory bail till it expired last on 25th April, 2022, the same benefit ought to be extended till the matter is heard before the Hon'ble Supreme Court, where it is pending for adjudication primarily on the question as to whether the concept of transitory bail is applicable to anticipatory bail.

Learned Counsel appearing for the de-facto complainant as well as the State controvert the submission of the petitioner and submit that there exists significant incriminating evidence against the petitioner, including the fact that the medical report indicates abrasions on the person of the victim girl. That apart, it is contended that the petitioner is an influential person and, abusing such influence, the petitioner was initially set free. It is further submitted that the learned Additional District Judge, having co-ordinate powers, refused extension of the anticipatory bail as recently as on 2nd May, 2022.

We have gone through the order of refusal of extension, which has been annexed to the present application for anticipatory bail. We find therefrom that the circumstances, as indicated above, were not considered in their entirety, nor pointed out, while passing the said order of refusal. Moreover, we find sufficient independent material to extend the benefit of anticipatory bail to the petitioner, of course, on certain conditions.

Subject to the result of the matter pending before the Hon'ble Supreme Court, and pursuant to the leave granted by the Hon'ble Supreme Court, we have taken up the application for anticipatory bail independently. We find from the documents on record that there is sufficient prima facie material to justify extending the benefit of anticipatory bail previously granted to the petitioner till the Hon'ble Supreme Court decides the issue of maintainability.

Accordingly, CRM (A) 277 of 2022 is allowed, thereby granting anticipatory bail to the petitioner on the condition that the petitioner shall not make out any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts before any police officer or Court of law and/or tamper with evidence in any manner whatsoever. Moreover, the petitioner shall not, in the meantime, enter the territorial jurisdiction of the Pradhannagar Police Station, where the victim girl resides. Moreover, in the event the petitioner is arrested, he shall furnish a bond of Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties of like amount each, one of whom should be local, to the satisfaction of the Arresting Officer. Moreover, the petitioner shall co-operate in the investigation and meet the investigating officer once in a fortnight to facilitate investigation. For the limited purpose of meeting the Investigating Officer, the above order restraining the petitioner from entering the Police Station-i- question shall be deemed to stand relaxed.

As regards the point taken by the de-facto complainant, to the effect that the Hon'ble Supreme Court did not extend the order of anticipatory bail as well, it is seen from the order of the Hon'ble Supreme Court that such extension was refused only since the period of transitory bail granted earlier was going to expire imminently on 25th April.

Moreover, it was clearly stipulated by the Hon'ble Supreme Court that the jurisdictional court may decide the bail application independently on its own merit in accordance with law, the terms of which direction we have adhered to.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)