

AD-229
Ct No.01
Jalpaiguri
06.02.2023
TN

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

CRM (A) 9 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **02.01.2023** in connection with **Kotwali** Police Station Case No. **601** of **2008** dated **07.04.2008** under Sections **363, 366 and 376 IPC.**

And

In the matter of: **Khageswar Roy @ Mangal Barman**

.... petitioner

Mr. Kunaljit Bhattacharjee,
Mr. Alok Sah,
Mr. Salok Sah,
Mr. Kamalesh Roy

... for the petitioner

Mr. Abhijit Sarkar,
Ms. Namrata Das

... for the State

Learned counsel for the petitioner submits that although the FIR was registered on April 07, 2008, the charge-sheet was filed only on February 23, 2022. Apart from there being no explanation for the inordinate delay, it is submitted that there is no clinching evidence against the petitioner. As such, the petitioner be released on anticipatory bail.

Learned counsel for the State opposes the prayer and submits that the victim could somehow escape after being detained unlawfully by the petitioner about 10 to 11 months after the incident. As such, there was a delay in investigation.

Be that as it may, we see from the submissions and the materials on record that the charge-sheet has already been filed. That

apart, the inordinate delay between the registration of the FIR and the filing of the charge-sheet remains unexplained.

Hence, we are of the opinion that the benefit of anticipatory bail ought to be extended to the petitioner.

Accordingly, CRM (A) 9 of 2023 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall comply with the conditions in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioner 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 learned Chief Judicial Magistrate, Jalpaiguri.

The petitioner shall attend each and every day of trial and shall cooperate in the trial in every manner. That apart, the petitioner shall not, directly or indirectly, issue any inducement, threat or promise to the victim throughout the period of trial.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)