

D/L 234
February 6, 2023
MNS

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

CRM (A) 16 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 03.01.2023 in connection with Mathabhanga Police Station Case No. 609 of 2022 dated 13.12.2022 under Section 6/17 of the Protection of Children from Sexual Offences Act, 2012 read with Section 363/365/323/34 of the Indian Penal Code, 1860.

And

In the matter of: Bappa Hossain and others

.... petitioners

Mr. Hllol Saha Podder,
Ms. Mousumi Das

... for the petitioners

Mr. Ujjwal Luksom,
Mr. Kallol Nag

... for the State

Learned counsel for the petitioners submits that the petitioner no. 1, who was aged about 19 years at the relevant time and the victim, who was about 15 years at such juncture, were in an amorous relationship and they lived together for a year. Subsequently, the victim's family interfered and the present complaint was made against the petitioners. It is also submitted that the petitioner no. 2 is the father, petitioner no. 3 is the mother and petitioner no. 4 is the brother of the petitioner no. 1. It is submitted that the petitioners ought to be granted anticipatory bail.

Learned counsel for the State opposes the prayer for anticipatory bail and places reliance on the medical report, which indicates that the hymen of the victim girl was “ruptured (old tear)”.

However, in view of the nature of the circumstances in the case, we are inclined to grant anticipatory bail since there is sufficient doubt as regards whether the petitioner no. 1 was in a relationship with the victim and was not guilty of the offence as alleged under the POCSO Act.

Hence, CRM (A) 16 of 2023 is allowed, thereby granting anticipatory bail to the petitioners on condition that the petitioners shall satisfy the stipulations in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioners shall be released on bail upon furnishing bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under POCSO Act, Mathabhanga. The sureties may be common in respect of all the petitioners. The petitioners shall not leave the territorial jurisdiction of the concerned police station during the entire period of investigation and shall meet the Investigating Officer once in a month during the continuation of investigation.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)