

D/L 262  
February 3, 2023  
MNS

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

**CRM (A) 25 of 2023**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 04.01.2023 in connection with Mathabhanga Police Station Case No. 588 of 2022 dated 29.09.2022 under Sections 498A/376/511 of the Indian Penal Code, 1860 read with Sections 3 and 4 of the Dowry Prohibition Act, 1961.

And

In the matter of: Jayjit Roy

.... petitioner

Mr. Suman Sehanabish (Mandal),  
Mr. Salok Sah

... for the petitioner

Mr. Ujwal Luksom,  
Mr. Tapan Bhattacharjee,  
Mr. Chattu Roy

... for the State

Learned counsel for the petitioner contends that it is a common practice nowadays to level allegation against the brother-in-law and father-in-law with regard to attempt of rape. That apart, the other co-accused persons are on anticipatory bail.

However, learned counsel for the State opposes the prayer for anticipatory bail and submits that the allegation under Section 376 of the Indian Penal Code cannot be an afterthought, particularly, in view of the statement of the victim under Section 164 of the Code of Criminal Procedure, the presumption of correctness of the allegation cannot be ruled out.

Although it is alleged by learned counsel for the petitioner that the allegation of attempt to commit rape was six months old at the

time when the complaint was lodged. we find from the materials on record that there is sufficient corroboration of the allegation in the statement of the victim as well as other surrounding circumstances.

Hence, we are not inclined to grant anticipatory bail to the petitioner, particularly, since the petitioner is not on a similar footing with the other co accused who have got anticipatory bail, who are the father-in-law and mother-in-law of the victim.

Hence, CRM (A) 25 of 2023 is dismissed.

**(Sabyasachi Bhattacharyya, J.)**

**(Rai Chattopadhyay, J.)**