

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

27.02.2023.
179/tkm

C.R.M. (A) 129 of 2023

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Mathabhanga P.S case no. 6 of 2023 dated 3.1.2023 under sections 406/420/366/376(2)(n) of the Indian Penal Code

and

Allowed

In Re : Najir Miya @ Najir Hoshen ... petitioner

Mr. A Saha

..... for the petitioner

Mr. Tapan Bhattacharjee

..... for the State

It is submitted on behalf of the petitioner that the victim lady was major at the time of cohabitation. There was prior intimacy between the parties. He prays for anticipatory bail.

Learned lawyer for the State opposes the prayer for anticipatory bail.

We have considered the materials on record including the statement of the victim recorded under section 164 Cr.P.C. Allegation of rape requires to be assessed in the light of the aforesaid submission that there was intimate relationship between adults.

Keeping in mind the facts and circumstances of the case, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioners shall be released on bail upon furnishing a bond of

Rs. 10,000/- with two sureties of like amount each, to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under section 438(2) of the Code of Criminal Procedure, 1973.

Petitioner shall appear before the court below and pray for regular bail within four weeks from date.

The application being CRM (A) 129 of 2023 is disposed of.

(Subhendu Samanta,J.)

(Joymalya Bagchi, J.)