

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

13.04.2023
Court No.1
(D/L 32)
(allowed)

CRM (A) 233 OF 2023

In Re: An application for bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 06.04.2023 in connection with Siliguri Police Station Case No.134 of 2023 dated 23.02.2023 under Sections 498 A/506/509 and 34 of the Indian Penal Code.

And

In the matter of: **Avinash Sharma**

... Petitioner.

Ms. Rima Sarkar

... for the petitioners.

Mr. Nilay Chakraborty

Mr. Dhimal Shil

... for the State.

The petitioner's case, praying for anticipatory bail is that the present case has been initiated on 23.02.2023 under Sections 498 A/506/509 and 34 of the Indian Penal Code.

A document showing that the complainant herein has filed another case against the petitioner and other relatives of the petitioner being Lake Town Police Station Case no.5 of 2022 dated 06.01.2022 under Sections 498A/506 of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act has also been filed on hearing learned APP and on perusal of the record it is seen that the dispute in both the cases are similar and relates to the matrimonial dispute between the husband and wife and regarding the custody of their children.

The facts leading to the dispute is in respect of the problems in the domestic relationship where two separate FIR's have been

registered arising out of the self same cause of action (matrimonial dispute) **[(T.T. Antony Versus State of Kerala and Others) reported in 2001 (6) SCC 181]** .

Considering the nature of offence alleged and the other materials on record and also keeping in mind the view of the Supreme Court in **[(Kankashar Kausar @ Sonam & others versus State of Bihar and others) Civil Appeal No.195 of 2022]**, we are inclined to grant anticipatory bail to the petitioner. We, therefore, direct that in the event of arrest the petitioner be granted bail upon furnishing a bond of Rs.5,000/- with two sureties of Rs.2,500/- amount each, to the satisfaction of the learned ACJM, Siliguri and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973

The application for anticipatory bail is, accordingly, allowed.

[SHAMPA DUTT (PAUL), J.]

(RAJARSHI BHARADWAJ, J.)