

03.07.2023

Item no.61

Court No.1.

AB

(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (A) No. 449 of 2023

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Dinhata Police Station Case No.323 of 2009 Dated 1.7.2009 under Sections 341/342/323/325/354/379/34 of the Indian Penal Code

And

In the matter of: Selim Malik Petitioner.

Mr. H. Saha Poddar,
Ms. Mousumi Das for the Petitioner.

Mr. Kallol Acharjee,
Mr. Tapan Bhattacharyafor the State.

Heard learned Advocate for the petitioner and learned
Advocate for the State.

It is contended on behalf of the petitioner that considering the fact that in the complaint there was no allegation of commission of rape by the present accused petitioner and also considering the fact that investigation has already been completed, the present application for anticipatory bail may be considered favourably.

While opposing the prayer for anticipatory bail, learned Advocate for the State contends that the present accused petitioner is absconding since 2009.

On perusal of the entire material in the case diary, it transpires that investigation has already been completed. Therefore, custodial interrogation of the present petitioner is not necessary.

Accordingly, we are inclined to allow the prayer of the petitioner and thus, the instant application under Section 438 Cr.P.C. stands allowed.

Accordingly, in the event of arrest, the petitioner, namely Selim Malik shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders and on further condition that the accused petitioner shall appear before the learned Additional Chief Judicial Magistrate, Dinhata positively within 21 days either from the date of obtaining certified copy or from the date of uploading of the instant order in the server, whichever is earlier.

In case the petitioner fails to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being C.R.M. (A) No.449 of 2023 is, thus, allowed.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)

