

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

29.08.2023
Court No.01
rpan/ 03

CRM (A) 599 of 2023

In Re:- An application for anticipatory bail under Section 438 of
the Code of Criminal Procedure;

And

In Re: Mahibul Haque

- Petitioner

Mr. Hillol Saha Podder,

Ms. Mousumi Das

...for the Petitioner.

Mr. Nilay Chakraborty,

Mr. Sagnik Sankar Sikdar

...for the State

Apprehending arrest in connection with Tufanganj Police
Station Case No.614 of 2023 dated 20.07.2023 under Section 6 of
the Protection of Children from Sexual Offences Act, 2012, the
present application has been preferred.

Mr. Saha Podder, learned advocate appearing for the
petitioner submits that there was a love relationship between the
petitioner and the victim girl. The petitioner is age about 19 years
and the victim girl is aged about 16 years. He further submits
that the alleged incident took place on 27th June, 2023, however,
the complaint was lodged by the grandmother of the victim girl on
20th July, 2023. The petitioner has been falsely implicated and
there are no incriminating materials on record and in the said
conspectus, the petitioner may be granted anticipatory bail on any
stringent condition.

The learned advocate appearing for the State submits that
there are strong incriminating materials on record against the
petitioner. In support of such contention, he has drawn our

attention to the statement of the victim girl, as recorded under Section 164 of the Code as well as the medical report. He further submits that investigation is still continuing and in view thereof, the petitioner's prayer may be refused.

Heard the learned advocates and perused the materials in the case diary.

Prima facie, the statements made by the victim lady under Section 164 of the Code are not corroborated by the medical report. We also note that that there are inconsistencies between the contents of the FIR and the statement of the victim girl. The complaint was also lodged about 23 days after the alleged incident. In the said conspectus, we are of the opinion that custodial interrogation of the petitioner may not be necessary.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Mahibul Haque** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a condition that the petitioner shall meet with the Investigating Officer of the case once a week till the conclusion of the investigation.

The petitioner shall not enter the jurisdiction of Tufanganj Police Station and immediately intimate his address where he would be residing to the Officer-in-Charge, Tufanganj Police Station.

It is further directed that the petitioner shall not intimidate the witnesses and/or tamper with the evidence in any manner whatsoever.

The application for anticipatory bail, being CRM (A) 599 of 2023, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)