

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

29.08.2023
Court No.01
rpan/ 30

CRM (A) 671 of 2023

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

And

In Re: Samchul Hoque @ Samsul Miah

- Petitioner

Mr. Sudip Guha
...for the Petitioner.

Mr. Biswarup Roy
...for the State.

Apprehending arrest in connection with Falakata Police Station Case No.258 of 2023 dated 05.06.2023 under Sections 376/417/506/323/34 of the Indian Penal Code, the present application has been preferred.

Mr. Guha, learned advocate appearing for the petitioner submits that the petitioner is neither the principal accused nor has any nexus with the incident. The contents of the complaint would itself reveal that the petitioner has been falsely implicated. The ingredients of Section 376 of the Indian Penal Code are not even applicable in respect of the petitioner herein. In the said conspectus, custodial interrogation of the petitioner may not be necessary and he may be granted anticipatory bail on any stringent condition.

Mr. Roy, learned advocate appearing for the State, however, opposes the petitioner's prayer and draws our attention to the statement of the victim lady, as recorded under Section 164 of the

Code and submits that there are incriminating materials on record against the petitioner.

Considering the materials on record and bearing in mind the nature of allegations in the light of the arguments, as advanced by the learned advocates appearing for the respective parties and the extent of complicity of the petitioner in the alleged offence, we are of the opinion that custodial interrogation may not be necessary.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Samchul Hoque @ Samsul Miah** 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 further condition that the petitioner shall meet with the Investigating Officer of the case once a week till the investigation is concluded.

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) 671 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.)