

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

29.08.2023
Item no.37
Court No.01
P.P./S.D.

CRM (A) 678 of 2023

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

And

In Re : Alam Hossain @ Sahidul Alam & Anr.

.... Petitioner

Ms. Jeenia Rudra

....for the petitioner

Mr. Sagnik Sankar Sikdar

..... for the State

Apprehending arrest in connection with Mekhliganj Police Station Case No.180 of 2023 dated 15.6.2023 under Sections 363/365/506 of the Indian Penal Code, 1860, read with Section 6/17 of the Protection of Children from Sexual Offences Act, 2012, the present application has been preferred.

Ms. Rudra, learned advocate appearing for the petitioners submits that the petitioner no. 1 is the brother and the petitioner no. 2 is the father of the principal accused. The ingredients of Section 6 of the POCSO Act are not applicable to the petitioners as would be explicit from the allegations levelled in the complaint. In the said conspectus, custodial interrogation of the petitioners may not be necessary more so when, upon completion of investigation chargesheet has been submitted.

Mr. Sikdar, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the medical report and the statements of the victim girl as recorded under Section 164 of the Cr.P.C.

Having heard the learned advocates and considering the materials on record, particularly the medical report and the statement of the victim girl under Section 164 of the Cr.P.C., the nature of allegations and the extent of complicity of the petitioners, we are of the opinion that custodial interrogation of the petitioners is not necessary more so when *prima facie* no specific overt act has been attributed them and a perusal of the contents of the FIR and the statements of the victim girl, as recorded under Section 164 of the Cr.P.C., reveals inconsistencies.

Accordingly, we allow the prayer for anticipatory bail of the petitioners and direct that in the event of arrest, the petitioners namely, **Alam Hossain @ Sahidul Alam and Md. Maphijuddin @ Mofijuddin**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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.

It is further directed that the petitioners shall not tamper with the evidence or intimidate the witnesses.

The application for anticipatory bail CRM (A) 678 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.)