

23.09.2023.

Item No. 30

Court No.1

ap

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE*

C.R.M. (A) No. 686 of 2023

In Re:- An application for anticipatory bail under Section 438 of Code of Criminal Procedure, 1973 filed on 18.08.2023 in connection with Mathabanga Police Station Case No. 718 of 2022 dated 15.12.2022 under Sections 363/373/34 of the Indian Penal Code read with Sections 6/17 of the POCSO Act.

And

In the matter of: **Noor Islam @ Hossain.** ...petitioner

Mr. Subhasish Misra,
Mr. Swarup Das.

...For the petitioner

Mr. Ujjwal Luksom,
Mr. Kallol Nag.

....For the State

1. The application for anticipatory bail is coming up on two occasions today.
2. This Court has considered the order passed on 29th August, 2023 wherein the petitioner was directed to meet the Investigating Officer twice in course of the week.
3. Counsel for the State submits that the petitioner came only on one occasion and that too handed over a broken mobile phone. He further submits that the petitioner has not visited the Investigating Officer of the case for the second time.
4. Be that as it may, this Court has very carefully considered the statements of the victim recorded under Section 164 of the Code of Criminal Procedure. It appears therefrom that the victim had the physical relations with the petitioner and the petitioner had taken pictures and

photographs thereof. The victim has further stated under Section 164 that if she did not visit the Parlour, the petitioner would upload the said photographs in the Social Media.

5. The Investigating Officer of the case in his report dated 6th September, 2023 has stated that the concerned Social Media Accounts has been scanned but the victim's photographs are not available anywhere.

6. The Investigating Officer of the case is directed to send the broken mobile phone of the petitioner for forensic examination. The entire data on the mobile phone can be retrieved by accessing the Meta data by a competent expert.

7. However, this Court does not find any inconsistency in the statements of the victim under Section 164 of the Code of Criminal Procedure. The evidence on record is clear and explicit.

8. In those circumstances, this Court is not inclined to entertain the application for anticipatory bail. The petitioner shall surrender before the concerned Court forthwith.

9. C.R.M. (A) No. 686 of 2023 is rejected.

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

(Supratim Bhattacharya, J.) (Rajasekhar Mantha, J.)

