

AD-211
Ct No.01
Jalpaiguri
30.01.2023
TN

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (A) 728 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 02.12.2022 in connection with Dinhata Women Police Station Case No. 100 of 2022 dated 08.10.2022 under Section 8 of the POCSO Act, corresponding to POCSO Case No. 28 of 2022.

And

In the matter of: Biswarup Barman

.... petitioner

Mr. Subhasish Misra,
Mr. Swarup Das

... for the petitioner

Mr. Nilay Chakraborty,
Mr. Sourav Ganguly

... for the State

The petitioner submits, through learned counsel, that the allegation levelled against the petitioner was in the nature of that contemplated under Section 8 of the POCSO Act. However, this was the result of an immature love affair between the petitioner and the victim, both of whom are teenagers.

It is further submitted that the mother of the alleged victim was present at the location when the alleged offence occurred, but did not resist the same. However, as an act of vengeance, subsequently the complaint was lodged.

Heard learned counsel for the State, who opposes the prayer for anticipatory bail.

However, from the materials on record, it is evident that we cannot rule out the possibility of the allegation being the outcome of a romantic affair between the teenager-petitioner and the victim.

Hence, the presumption under the POCSO Act does not arise in the present case as such.

Thus, CRM (A) 728 of 2022 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall satisfy the stipulations in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.5,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Dinhata and on any other condition which the competent court may then deem fit.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)