

AD-210
Ct No.01
Jalpaiguri
31.01.2023
TN

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

CRM (A) 738 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 06.12.2022 in connection with Mathabanga Police Station Case No. 157 of 2022 dated 04.04.2022 under Section 376(1) of the IPC, corresponding to G.R. Case No. 344 of 2022.

And

In the matter of: Shailesh Barman

.... petitioner

Mr. Subhasish Misra,
Mr. Swarup Das

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Sagnik Sankar Sikdar

... for the State

According to the petitioner, the entire incident is based on the inability of the husband of the victim to pay back the money he has taken as loan from the accused person/petitioner and there is no ingredient of offence so far as Section 376 of the Indian Penal Code is concerned against the petitioner. To this submissions, learned counsel for the State has raised strong objection on the basis of the documents available in the case diary, more particularly, the statement of the witnesses recorded under Section 164 of the Code of Criminal Procedure (CrPC).

Perused those documents.

There is no doubt that *prima facie* the offence of the accused person is made out from the materials in the case diary, the

statement of the witness recorded under Section 164 of the CrPC in particular.

At this initial stage of investigation, therefore, in view of such *prima facie* material against the petitioner, it is found proper to reject his bail prayer and bail prayer of the petitioner in CRM (A) 738 of 2022 is rejected.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)