

AD-219
Ct No.01
Jalpaiguri
01.02.2023
TN

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

CRM (A) 780 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **22.12.2022** in connection with **GR (1) - 443/22** arising out of **Sahebganj** Police Station Case No. **343** of **2022** dated **19.09.2022** under Sections **498A/323/313/34 IPC, 1860.**

And

In the matter of: **Sukdeb Barman**

.... petitioner

Mr. Surajit Basu,
Mr. Ratan Chandra Roy

... for the petitioner

Mr. Nilay Chakraborty,
Mr. Sourav Ganguly

... for the State

Learned counsel for the petitioner contends that the petitioner, being the husband of the alleged victim, was refused anticipatory bail on a previous occasion although other co-accused persons have been granted anticipatory bail. Learned counsel for the petitioner further points out that inherent contradiction in the allegation made inasmuch as the complaint under Section 498A of the Indian Penal Code was lodged on September 09, 2022 with the allegation that the victim was driven out from her matrimonial home on September 10, 2020, that is, two years prior to the date of the complaint.

It is further submitted that the victim also alleged that a miscarriage took place due to some medicine being administered by the present petitioner/husband about one year before the complaint, which is not feasible even *ex facie*, since admittedly the husband had

no contact with the alleged victim for the last two years before the complaint.

Learned counsel appearing for the State opposes the prayer for anticipatory bail. However, in his usual fairness, learned counsel produces the medical report. We find from the same that there was a missed abortion and apparently there were cysts in the ovary of the victim lady, due to which we cannot negate the possibility of the said condition being the reason for the missed abortion.

In such view of the matter, we are of the opinion that the petitioner should get the advantage of anticipatory bail.

Accordingly, CRM (A) 780 of 2022 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall comply with the conditions 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.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Dinhata. The petitioner shall not leave the territorial jurisdiction of the concerned police station during investigation and shall cooperate with the investigation.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)