

AD-220
Ct No.01
Jalpaiguri
01.02.2023
TN

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

CRM (A) 781 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 **Sitalkuchi** Police Station Case No. **321** of **2022** dated **08.11.2022** under Sections **341/376/109 IPC, 1860**, corresponding to **G.R.** Case No. **1346 of 2022**.

And

In the matter of: **Bikash Namadas**

.... petitioner

Mr. Salok Sah

... for the petitioner

Mr. Arun Kumar Sarkar,
Mr. Dhiman Sil

... for the State

The petitioner's contention is that there was a previous romantic relationship between the petitioner and the alleged victim. Moreover, the complaint was lodged about four days after the alleged incident. It is further submitted that as per the statement of the victim, there was an indecent proposal by the petitioner about 20 days prior to the date of the incident.

Learned counsel for the petitioner further submits that in view of the attending circumstances, the petitioner ought to be granted anticipatory bail.

Learned counsel for the State opposes the prayer for anticipatory bail.

Upon a perusal of the medical report, however, we find that there is no sign of the petitioner having been sexually assaulted in any manner whatsoever. That apart, the victim lady was married at

the relevant juncture and an adult. As such, it may be presumed that there is an element of doubt in the allegation under Section 376 of the IPC since a married lady of mature age would be likely to resist the attempt otherwise.

As such, we are inclined to grant anticipatory bail.

Accordingly, CRM (A) 781 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, Mathabhanga. The petitioner shall not leave the territorial jurisdiction of the concerned police station during investigation and shall cooperate in the investigation. The petitioner shall meet the Investigating Officer once a month during the entire period of the investigation.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)