

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

12.12.2023.
9/tkm

C.R.M. (A) 959 of 2023

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Sahebganj P.S case no. 358 of 2023 dated 27.8.2023 under section 12 of the POCSO Act
and

In Re : Mridul Sarkar ... petitioner

Mr. Sudip Guho

..... for the petitioner

Mr. Abhijit Sarkar

Ms. Sukanya Adhikary

..... for the State

1. This is a subsequent application for anticipatory bail. He contends that the allegation of rape is out and out false. Victim had declined medical examination. Hence, he renews his prayer for pre-arrest bail.

2. In view of the fact that prayer for anticipatory bail of the petitioner was rejected by a Co-ordinate Bench of this court in October 2023, we directed the investigating officer to submit report why petitioner had not been apprehended.

3. Report is placed on record. In the report it is stated that the petitioner had absconded and in spite of earnest efforts he could not be apprehended. Under such circumstances, we are at a loss why investigating agency did not pray for issuance of warrant of arrest against the petitioner.

4. We have considered the materials on record. Statement of the victim discloses involvement of the petitioner in the offence of penetrative sexual assault. Merely because the victim declined medical examination, the accusation cannot be said to be improbable. Conduct of the petitioner in evading the process of law is evident from the report filed by the investigating agency.

5. Under such circumstances we are of the opinion this is not a fit case to grant anticipatory bail to the petitioner.

6. Accordingly prayer for anticipatory bail is rejected.

7. Investigating officer shall take prompt steps for apprehension of the petitioner.

8. Presence of investigating officer is noted and dispensed with.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)