

Circuit Bench of Calcutta High Court At Jalpaiguri
CRM (A) 3 of 2024

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Pundibari Police Station** Case No. **835 of 2023** dated **25.11.2023** under Sections **9/10/11** of the Prohibition of Child Marriage Act, 2006.

- A n d -

In the matter of : Tapas Mandal & Anr.

.... Petitioners.

Mr. Hillol Saha Poddar,
Ms. M. Das,

... For the Petitioners.

Mr. Abhijit Sarkar,
Mr. Biswarup Roy,

... For the State.

Heard Mr. Poddar, learned Counsel for the petitioner and
Mr. Sarkar, learned Counsel for the State.

This petition under Section 438 Cr. P.C. has been filed
praying for grant of anticipatory bail by the petitioners in
connection with Pundibari P.S. Case No. 835 of 2023 dated
25.11.2023 under Sections 9/10/11 of the Prohibition of Child
Marriage Act, 2006, pending before the learned Chief Judicial
Magistrate, Coochbehar.

The petitioner no. 1 is the father and the petitioner no. 2 is
the mother of the girl who is stated to be about 17 years 4 months
of age. The aforesaid criminal case/FIR was registered on a
complaint made by Assistant Sub-Inspector of Police, Pundibari
Police Station, Coochbehar, namely, Pulak Ghosh, on the basis of a

telephonic information received from GDE Officer S.I. Gouranga Barman of Pundibari PS Coochbehar that one child marriage has been organized in the house of Kajal Chakraborty, P.S. Pundibari, Coochbehar and on receipt of the aforesaid information he informed the matter to OC PS and thereafter the defacto complainant ASI, Pulak Ghosh arrived at the house of the aforesaid Kajal Chakraborty and found that marriage has already occurred and on seeing the police party all the people present, fled away from the spot and he recovered the child i.e., the girl Tisha Mandal.

Most surprisingly the defacto complainant ASI, Pulak Ghosh had neither mentioned anything in the FIR nor in the recovery memo, indicating solemnization of the marriage on the spot or in the house. As per statement of the girl recorded under Section 164 Cr. P.C., she fell in love with the boy namely, Rik Chakraborty aged about 19 years and knowing this her father told her to go out of his house and thereafter she went to the aforesaid Rik Chakraborty and insisted him to marry with her but he initially refused but after much insistence by her, he married with her in Kalibari without the presence of parents of either of them.

Considering the facts and circumstances of the case, the statement of the girl recorded under Section 164 Cr. P.C., the period of maximum sentence under Sections 9, 10 and 11 of the provisions of Child Marriage Act, 2006 and the conduct of the defacto complainant ASI, Pulak Ghosh, the nature and gravity of the accusation, we find it a fit case to grant anticipatory bail to the petitioners. The prayer for anticipatory bail is granted.

Accordingly, the petitioners namely, **Tapas Mandal and Pampi Mandal**, are granted anticipatory bail in relation to afore-noted Pundibari Police Station Case No. 835 of 2023 dated 25.11.2023 under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006 subject to the following conditions:-

- (i) In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs. 10,000/-, each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Chief Judicial Magistrate, Coochbehar and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders.
- (ii) In the event of the petitioners fail to adhere to any of the conditions stipulated in Section 438 (2) of the Code of Criminal Procedure, the learned Court below will be at liberty to cancel the anticipatory bail without further reference to this Court.

Accordingly, CRM (A) 3 of 2024 is allowed.

Urgent certified copy of this order, if applied for, be supplied to the learned Counsel for the respective parties.

(**Surya Prakash Kesarwani, J.)**

(**Rai Chattopadhyay, J.)**