

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

08.03.2024

Court No.1
Item.112
(Srimanta)

CRM(A) 150 OF 2024

In Re: An application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Sitalkuchi Police Station Case No. 417/2023 dated 14.12.2023 under Sections 447/323/354/326/307/506(2)/34 of the Indian Penal Code, 1860 and Sections 4/7 of the of the Protection of Children from Sexual Offences Act, 2012 corresponding to POCSO Case No. 98/2023.

And

In the matter of: **Rafikul Mia & Ors.**

. . .Petitioners.

Ms. Suman Sehanabis (Mandal),
Mr. Salok Sah

... For the petitioners.

Mr. Abhijit Sarkar,
Mr. Sagnik Sankar Sikdar

...For the State.

Mr. Hillol Saha Podder

...for the de facto complainant.

1. The petitioner nos. 1, 2, 3 and 6 have been mentioned by the victim girl as well as her elder sister in their respective statements under Section 164 of the Code of Criminal Procedure.
2. Since the involvement of the petitioner nos. 1, 2, 3 and 6 would appear, prima facie, from the Case Diary together with the fact that investigation is still going on and charge-sheet

has not been filed, we are not inclined to grant the prayer for anticipatory bail for petitioner nos. 1, 2, 3 and 6.

3. The petitioner nos. 4 and 5 have been mentioned by the elder sister of the victim girl in her statement. We, however, note that there were no allegations of commission of any offence under the POCSO Act against petitioner nos. 4 and 5.
4. Although learned Counsel appearing for the petitioner submits that this is a case of rivalry and dispute between two neighbouring families, the specific naming of the petitioner nos. 1, 2, 3 and 6 in the case records constrain us to disallow the prayer for anticipatory bail in respect of the petitioner nos. 1, 2, 3 and 6.
5. We, however, grant the prayer for anticipatory bail for petitioner nos. 4 and 5.
6. We accordingly direct that in the event of arrest, the petitioner nos. 4 and 5 shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties of like amount each, one of who must be local, to the satisfaction of the Arresting Officer and also comply with the conditions laid down under Section 438(2) of The Code of Criminal Procedure, 1973. The petitioners shall cooperate with the investigation and make themselves available for questioning to the Investigating Officer once in a fortnight

until further orders. The petitioners shall also not intimidate any witnesses or tamper with any evidence in any manner whatsoever.

7. The application for anticipatory bail being CRM (A) 150 of 2024 for petitioner nos. 4 and 5 is allowed and disposed of in terms of the above.
8. We are of the view that till completion of the investigation, custodial interrogation of the petitioner nos. 1, 2, 3 and 6 would be required.
9. The application for anticipatory bail being CRM (A) 150 of 2024 for petitioner nos. 1, 2, 3 and 6 is accordingly rejected.

(PRASENJIT BISWAS,J.)

(MOUSHUMI BHATTACHARYA,J.)