

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

04.04.2024
Court No.01
Item No.34
Avijit Mitra

CRM (A) 246 of 2024

In Re:- An application for anticipatory bail under Section
438 of the Code of Criminal Procedure;
And

In Re: Mihir Barman

- Petitioner

Ms. Srishti Sarkar,
Ms. Madhushree Dutta,
Mr. Debasish Mukherjee
...for the Petitioner
Mr. Ujjwal Luksom,
Mr. Subhasish Misra
...for the State.

Apprehending arrest in connection with Mekhliganj Police
Station Case No.346 of 2023 dated 14.10.2023 under Sections
417/376/323/506/34 of the Indian Penal Code, the present
application has been preferred.

Ms. Sarkar, learned advocate appearing for the petitioner
submits that the petitioner has been falsely implicated. The *de
facto* complainant is an adult lady and she had a consensual
relationship with the petitioner. In view thereof, the ingredients
of Section 376 of the Indian Penal Code are not attracted against
him. In the said conspectus custodial interrogation of the
petitioner may not be necessary and he may be granted
anticipatory bail on any stringent condition.

She further submits that on the date of the alleged incident as stated in the complaint, the petitioner was attending his office at Dakshin Dinajpur, as would be explicit from the document annexed at page 11 of the application.

Mr. Luksom, learned advocate appearing for the State denies the contention and submits that there are incriminating materials on record against the petitioner and as such his prayer needs to be refused.

We have heard the learned advocates appearing for the respective parties and perused the materials on record including the statement of the witnesses and the statement of the victim lady, as recorded under Section 164 of the Code.

Prima facie, it appears that the victim lady was having a consensual relationship with the petitioner. It is a matter to be decided at the appropriate stage of the proceeding whether the act of the petitioner *per se* would constitute cheating. In view thereof, we are of the opinion that custodial interrogation of the petitioner is not necessary.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Mihir Barman** 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 arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further condition that the petitioner shall meet with the

investigating officer once a week till the investigation is complete. The petitioner shall also attend the learned Court below on all the dates as specified for hearing.

It is further directed that the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned Court below shall be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for anticipatory bail, being CRM (A) 246 of 2024, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.) (Tapabrata Chakraborty, J.)