

Court No. 1

29.04.2024

(JCB 157)

(S. Banerjee)

Calcutta High Court

In the Circuit Bench at Jalpaiguri

Appellate Side

CRM (A) 379 of 2024

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In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Siliguri Women Police Station Case No. 24 of 2024 dated 17.03.2024 under Section 376/325/420/506 of the Indian Penal Code.

And

In the matter of: Rajiv Dutta

...petitioner

Mr. Subhasish Misra
Mr. Satyajit Paul

... for the petitioner

Mr. Aditi Shankar Chakraborty
Mr. Ujjwal Luksom
Mr. Kallol Nag

... for the State

1. Heard learned advocates for the respective parties.
2. There are substantial allegations as against the present accused-petitioner in the FIR as well as in the statement of the victim as recorded under Section 164 Cr.P.C.
3. Accordingly, we are not inclined to exercise our discretion under Section 438 Cr.P.C.
4. Before parting with, we are constrained to hold that since there are various allegations of taking private photographs and videos by the present accused-petitioner as well as there is a disclosure in the FIR as well as in the 164 statement of the victim that the

accused had threatened to upload such photographs in social media, we are surprised to note that the Investigating Officer of Siliguri Woman Police Station Case No. 24 of 2024 made no endeavor to take appropriate steps to add relevant sections of the Information Technology Act which ought to have been taken by the IO.

5. Regard being had to the facts and circumstances, we are thus constrained to direct the Commissioner of Police, Siliguri Police Commissionerate to remove the Investigating Officer from the investigation of the aforesaid case and to depute another competent Investigating Officer for proper investigation.
6. Learned counsel for the State is hereby requested to communicate this order to the Commissioner of Police, Siliguri Police Commissionerate forthwith.
7. All parties shall act on the server copy of this order duly downloaded from the official website of this court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)