

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

03.07.2024
Court No.1
(D/L 32)
(allowed)

CRM (A) 494 OF 2024

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Malbazar Police Station Case No.295 of 2024 dated 22.05.2024 under Sections 376(2) of the Indian Penal.

And

In the matter of: **Sahajahan Badsha @ Sahajan Badsha**
... Petitioner.

Mr. Subrata Karmakar
Ms. Madhumita Sarkar

... for the petitioners.

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Sagnik Sarkar Sikdar

... for the State.

Petitioner prays anticipatory bail.

Learned counsel appearing for the petitioner submits that the petitioner has been falsely implicated in the present case. The de-facto complainant (victim lady) filed her written complaint on 22nd May, 2024 with the Malbazar Police Station and in the written complaint it was specifically mentioned that on 20th June, 2023, accused developed sexual relationship with her, but she remained silent for about 11 months as she was an adult and married lady.

The learned counsel for the petitioner further submits that the de-facto complainant in her complaint never speaks of any forceful sexual relationship.

Learned counsel appearing for the State opposes the prayer for anticipatory bail.

Perused the case diary more specifically the statements recorded under Section 164 of the Criminal Procedure Code given by the complainant where she has accepted the extra marital love affair with the petitioner.

Since both the parties are adult, they are expected to be aware of the consequences of their relationship.

We, therefore, grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner be granted bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, to the satisfaction of the arresting officer and on further condition that the petitioner shall appear before the trial court on each and every date of hearing. The petitioner shall handover the cell phone used by the petitioner to the Investigating Officer forthwith and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973. In default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

The application for anticipatory bail is, accordingly, allowed.

[MD. SHABBAR RASHIDI, J.]

(RAJARSHI BHARADWAJ, J.)