

30.01.2024
(D/L 75)
Ct. No.1
(Allowed)
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

C.R.M.(A) 1030 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Mekhliganj P. S. Case No.43 of 2022 dated 01.02.2022 under Sections 363/365/34 of the Indian Penal Code adding Section 6 of the POCSO Act and Section 9/11 of Prohibition of Child Marriage Act (G.R. No.102 of 2022).

In the matter of : Amit Sarkar

... Petitioner

Mr. Satyam Sarkar,
Mr. Haider Ali

... for the petitioner

Mr. Aditi Shankar Chakraborty, APP
Mr. Subhasish Misra

... for the State

Mr. Alok Sah

... for the defacto complainant

1. Heard learned Counsel for the petitioner, learned counsel for the State and learned counsel for the victim.
2. Learned counsel for the State opposes the prayer for anticipatory bail of the petitioner on the ground of minority of the girl.
3. The victim is present in court today and she has stated that she has given birth to a girl child 9 days back being fathered by the petitioner. It is further stated by her that she was in relationship with the present petitioner for two years and out of her own volition, she married the petitioner after attaining majority. It is also stated by her that she is now 19 years old and her husband is 20 years old.

4. The statement of the victim recorded under Section 164 Cr.P.C. is almost to the same extent baring some incriminating allegations which, according to the victim, was stated by her on instruction of her parents.
5. Regard being had to the facts and submission, the fact that the petitioner and the victim are now leading a conjugal life, his tender age and possibility of reform in him in the long run, especially, the rights of the victim and the neonat under Article 21 of the Constitution of India, it is directed that the petitioner shall surrender before the learned Additional Sessions Judge, Mekhliganj, Cooch Behar in G.R. No.102 of 2022 arising out of the aforesaid P.S. case within 15 days from today. On his appearance and application for bail, he shall be released on bail.
6. Accordingly, the prayer for the anticipatory bail is allowed.
7. The applications being CRM(A) 1030 of 2023 is disposed of.
8. The learned court below is hereby directed to act upon the server copy or certified copy of this order.
9. Personal appearance of the victim is dispensed with.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)