

Circuit Bench of Calcutta High Court At Jalpaiguri

CRM (A) 1047 of 2023

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kuchlibari Police Station** Case No. **124 of 2023** dated **04.09.2023** under Sections **448/376/506** of the Indian Penal Code.

- A n d -

In the matter of : Faizul Alam

.... Petitioner.

Mr. Jagriti Mishra,
Ms. A. Bhattacharyya,
Ms. M. Das,

... For the Petitioner.

Mr. Aditi Shankar Chakraborty,
Mr. Biswarup Roy,

... For the State.

Heard Mr. Mishra, learned Counsel for the petitioner and
Mr. Chakraborty, learned Counsel for the State.

This petition under Section 438 Cr. P.C. has been filed by
the accused/petitioner in connection with Kuchlibari P.S. Case No.
124 of 2023 dated 04.09.2023 under Sections 448/376/506 of the
Indian Penal Code.

Learned Counsel for the petitioner submits that the
petitioner is a young boy of 21 years of age and has been falsely
implicated by his neighbor who is the de facto complainant/victim.

Learned Counsel for the State submits that as per First Information Report version, the statement of the victim complainant recorded under Section 164 Cr. P.C. and also as per the statement of the mother in law of the victim recorded under Section 164 Cr. P.C, the accused/petitioner entered into the house of the victim on 31.08.2023 in the night and raped her. Prima facie merely lodging of the FIR with some delay is not of much relevance particularly when the allegation of rape is supported by a statement under Section 164 Cr. P.C. and the medical evidence. He, therefore, submits that anticipatory bail application of the petitioner deserves to be rejected.

We have carefully considered the submission of learned Counsel for the parties and perused the petition as well as the case diary produced by the learned State Advocate. Considering the facts and circumstances of the case, the statement of the victim girl recorded under Section 164 Cr. P.C., the statement of the victim's mother in law recorded under Section 164 Cr. P.C. and the medical report and the nature and gravity of accusation, we are not inclined to grant anticipatory bail to the petitioner.

Consequently, CRM (A) 1047 of 2023 is dismissed.

Urgent certified copy of this order, if applied for, be supplied to the learned Counsel for the respective parties.

(Surya Prakash Kesarwani, J.)

(Rai Chattopadhyay, J.)