

26.11.2025
Item no.3(DL)
Court No.3
srm
(Allowed)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M. (A) 665 of 2025

In Re:- An application for anticipatory bail under Section 482 of BNSS, 2023 in connection with Siliguri (Women) P.S. Case No.85 of 2025 dated 01.08.2025 under Sections 69/318(2)/318(4)/351(2) of Bharatiya Nyaya Sanhita, 2023 corresponding to PTN No.4046 of 2025.

In the matter of : **Mahindra Gupta**

... Petitioner.

Mr. Saptarshi Banik,
Mr. Ratan Banik

...for the Petitioner.

Mr. Ujjwal Luksom,
Ms. Namrata Das

...for the State.

Mr. Bishwaraj Agarwal

...for the *de facto* complainant.

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Service report filed by the State is taken on record.
3. Learned Advocate for the petitioner submits that physical relationship between the complainant and the petitioner has taken place on consent. Both the petitioner and the complainant are major persons. There are allegations that the complainant has provided a sum of Rs.4,00,000/- to the petitioner, however, the petitioner has repaid the

entire amount. Further, the victim has refused to undergo medical examination. Promise to marry and subsequent physical relationship between the two parties with consent would not amount to rape. To buttress his contention he relies on the decisions of the Hon'ble Supreme Court passed in (i) *Kunal Chatterjee versus The State of West Bengal & Ors. [In Re: Special Leave Petition (Crl.) No.7004 of 2005]* and (ii) *Prithvirajan versus The State rep. by The Inspector of Police & Anr. [SLP(Crl.) No.12663/2022]*. He seeks for grant of anticipatory bail in favour of the petitioner.

4. Opposing such prayer for anticipatory bail, learned Advocate for the State submits that the victim/complainant on the pretext of marriage has been forced into physical relationship. He seeks for dismissal of the application for grant of anticipatory bail.
5. Learned Advocate for the *de facto* complainant leaves the matter to the discretion of the Court.
6. Perused the case diary and the materials on record.
7. The victim is aged about 28 years. The victim in her statement has stated that she developed love relationship with the petitioner. Subsequently, she came to learn that the petitioner is married. The victim has refused to undergo medical examination. Considering the aforesaid and also bearing in mind the proposition as laid down by the Hon'ble Supreme Court in *Kunal Chatterjee (supra)*

and *Prithivirajan (supra)*, I am inclined to allow the prayer of the petitioner for anticipatory bail.

8. Accordingly, in the event of arrest the petitioner namely **Mahindra Gupta** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, 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 corresponding to 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall meet the Investigating Officer of the concerned police station once in a fortnight until further orders and shall attend the Court on the dates fixed for appearance and hearing. The petitioner is directed to join investigation and cooperate with the Investigating Officer.
9. In case the petitioner fails to adhere to any of the conditions mentioned in Section 438(2) of the Code/ Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023, the learned trial Court shall be entitled to cancel the anticipatory bail without further reference to this Court.
10. This application for anticipatory bail is, thus, allowed.
11. **CRM (A) 665 of 2025** stands disposed of.

(Bivas Pattanayak, J.)