

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (A) 105 of 2026

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

And

In the matter of: - **XXX & Anr.**
.....petitioner.

Mr. Debabrata Roy,
Mr. Bikash Chowdhury,
Mr. Soumik Mondal,
Ms. Sarbani Mukhopadhyay.
...for the petitioner.

Mr. Pratick Bose.
...for the State.

Ms. Raima Ganguly,
Ms. Evalata Khatun.
... for the respondent no. 2

Learned counsel appearing for the petitioner submits as follows. The petitioners are senior citizens and the parents in law of the defacto complainant. The petitioners had earlier filed three writ petitions to protect their right to stay at their own property. The house in question belongs to the petitioner no. 1. The defacto complainant and the husband had assaulted and threatened them and driven them out of the house. This Court directed them to enter into the house with police protection. They went in with police help, but were again thrown out. Again

an order had to be passed to put them inside the house. Lastly, again the defacto complainant and her husband assaulted them and drove them out of their house. The High Court again had to intervene and pass an order directing both the parties to stay at different portions of the house. The Court observed that steps may have to be taken to consider eviction. After all these, allegations have been made by the defacto complainant that the petitioner no. 2 had touched the private parts of his seven years old grand-daughter.

Learned counsel appearing for the defacto complainant strongly opposes the prayer of the anticipatory bail.

Learned counsel appearing for the State opposes the prayer of the anticipatory bail. He refers to the statements of witnesses including that of the child recorded before the Magistrate. However, he submits that there are previous litigations pending between the private parties.

Ordinarily, the statement of such small child would be taken as sacrosanct. However, the present facts are absolutely exceptional. The context of previous litigations has to be taken into consideration. The small child would also be under the authority of her parents.

Considering the above, the other materials available in the case diary and the previous litigations between the private parties, I am inclined to grant the anticipatory bail to the petitioners.

In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023 and on further condition that the petitioner no. 2 shall cooperate with investigation, meet the I.O. once a fortnight till submission of report in final form and shall not threaten or intimidate witnesses.

The application for anticipatory bail is, thus, allowed.

Urgent Photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)