

**HIGH COURT OF TRIPURA  
AGARTALA**

A.B. 41/2023

Kashem Ali and anr. -----Petitioner(s)  
Versus

The State of Tripura -----Respondent(s)

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For Petitioner(s)	:	Mr. S. Sarkar, Sr. Advocate Ms. V. Poddar, Advocate
For Respondent(s)	:	Mr. Raju Datta, PP Mr. S. Debnath, Addl. PP

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**HON'BLE MR. JUSTICE ARINDAM LODH**  
**Order**

**22/12/2023**

Heard Mr. S. Sarkar, learned senior counsel assisted by Ms. V. Poddar, learned counsel appearing for the accused-petitioners as well as Mr. Raju Datta, learned PP alongwith Mr. S. Debnath, learned Additional PP appearing for the State-respondent.

This is an application filed under Section 438 Cr.P.C. for granting anticipatory bail to the accused petitioners who are wanted in connection with R.K. Pur Women PS case No. 35 of 2023 registered under Sections 366/376D of the IPC and Section 6 of the POCSO Act, 2012.

Mr. S. Sarkar, learned senior counsel appearing for the accused-petitioners has submitted that the accused-petitioners are in no way connected with the alleged offence. Learned senior counsel has also submitted that the principal-accused has already been released on bail, and he has urged to enlarge the accused-petitioners on anticipatory bail.

Learned PP has produced the case diary and has strongly opposed the bail prayer.

I have gone through the case record. I have also perused the case diary.

It is seen that the FIR has been lodged by the mother of the victim stating *inter alia* that there was good talking terms and good relation between the victim-girl and the principal-accused, Soheli Mia. On the request of Soheli Miah, the victim-girl had agreed to accompany him to Tepania Park, Udaipur on 31.05.2023 at about 3.30 p.m. afternoon. The mother-complainant was not aware of the said fact. In the complaint, the mother-complainant has stated that after returning home the victim-girl complained her that the principal-accused, Soheli Mia had raped her and thereafter the present two accused petitioners had also raped her daughter. As per the FIR, the victim-girl is 17 years old.

It is seen that the mother-complainant did not lodge the complaint on the same date of the incident and she lodged the same on 01.06.2023. Thereafter, the victim-girl was medically examined by the doctor of the hospital.

From the medical examination of the victim-girl the doctor found that her hymen was intact and no injury was found in her private parts. No spermatozoa was found and blood sample was collected. It is also seen that the doctor did not find any sign of struggle during medical examination of the victim and the genital organ was found to be normal. It is also revealed from the CDR attached to the case diary that the victim-girl and the principal-accused, Soheli Mia had so many telephonic conversations.

In view of this, *prima facie* I do not find that the victim-girl was forcefully abducted by the present accused-petitioners. Moreover, the principal-accused, Soheli Miah has already been released on bail.

This court finds it very difficult to come to a conclusion that the victim-girl was raped by the present accused-petitioners because according to the FIR lodged by the mother of the victim, the victim-girl informed the fact of alleged rape just after her arrival at home,

but surprisingly, the mother-complainant neither lodged any information to the police station nor made any attempt to take the victim-girl to hospital for her medical examination. Moreover, medical examination was conducted on 01.06.2023 when nothing abnormality was found.

In this suspicious circumstance, I am inclined to release the accused petitioners, namely, **Kashem Ali** and **Kurban Ali**, on anticipatory bail.

Accordingly, it is directed that in the event of their arrest, the accused petitioners shall be released on bail on furnishing bail bond of **Rs. 50,000/- each** with **one surety each** of the like amount to the satisfaction of the arresting authority. However, it is made clear that the accused-petitioners shall co-operate the process of investigation and they will make themselves available before the Investigating Officer twice in a week. It is further directed that the accused-petitioners shall appear before the Investigating Officer tomorrow (23.12.2023) between 10.30 am to 1.00 pm.

With this observations and directions the instant anticipatory bail application stands allowed and disposed.

Return back the case diary.

**JUDGE**