

**(via Video conference)**

**11 (S/L)16.10.2020**

*Dd/Aloke*

**CRM 7780 of 2020**

In Re – An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Sagardighi Police Station case no. 226 of 2020 dated 11.05.2020 under Sections 341/325/307/302/34 of the Indian Penal Code.

In the matter of : **Bahadur Sk @ Bahadul Sk**  
.....Petitioner

Mr. Sandip Chakraborty  
.... ....for the Petitioner

Mr. Saibal Bapuli, Id. APP  
Ms. Sayanti Santra  
... ...For the State

Learned Advocate for the petitioner submits that the instant application for anticipatory bail has been filed under changed circumstances after dismissal of an earlier application. It is submitted that at the relevant point of time when earlier application for anticipatory bail was rejected, the charge-sheet was not filed. Now the charge-sheet has been filed and, therefore, the instant application should be considered on its own merit. It is further submitted that one of the prime accused, namely, Momijul Sk, the brother of the present petitioner had already been granted bail whereas the petitioner who has not participated in any kind of scuffle is still apprehending arrest.

Learned Advocate for the State opposes the prayer for anticipatory bail. Reference is made to the statement of eye witnesses recorded under Section 161 of the Cr.P.C. which corroborates the involvement of the present petitioner to the alleged offence. It is further submitted that the petitioner does not stand on the same footing that of Momijul Sk, the brother of the present petitioner, and, therefore, cannot take advantage on the ground of parity.

After hearing the respective submissions and upon perusal of the materials available from the case diary including the statement of the eye witnesses and the complicity of the petitioner to the alleged offence, we do not find that the petitioner is standing on the same footing that of the other co-accused who has already been enlarged on bail. Even if the charge-sheet has been filed, yet we do not feel that the petitioner should get an immunity from arrest.

Accordingly, the prayer for anticipatory bail is rejected.  
The application is, thus, dismissed.

**(Harish Tandon, J.)**

**(Shampa Sarkar, J.)**