

D/L 233
February 2, 2023
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (A) 5 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 02.01.2023 in connection with Dhupguri Police Station Case No. 515 of 2022 dated 31.08.2022 under Sections 305/34 of the Indian Penal Code, 1860.

And

In the matter of: Rakib Hossain @ Lawab @ Nawab Ali

.... petitioner

Mr. Anirban Banerjee

... for the petitioner

Mr. A. S. Chakraborty,
Mr. Biswarup Roy

... for the State

Learned counsel for the petitioner submits that there was a delay in lodging the complaint. That apart, the brother of the petitioner has been granted anticipatory bail, despite being a co-accused in the case.

Learned counsel for the State opposes the prayer for anticipatory bail primarily on the strength of a dying declaration given by the victim.

We find from the dying declaration that the victim had apparently stated that she was trying to call her “boy friend” and as he did not respond to her call, due to anger and frustration she consumed 10 ml. poison.

We find *prima facie* from the said dying declaration that the act might have been one of immaturity on the part of the victim. Despite having full sympathy for the victim, considering that the co-accused

has been granted anticipatory bail and that the petitioner may not be directly liable for the suicide of the victim, we grant anticipatory bail to the petitioner.

Accordingly, CRM (A) 5 of 2023 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall satisfy the stipulations in Section 438(2) of the Code of Criminal Procedure.

In the event of arrest, the petitioner 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 learned Chief Judicial Magistrate, Jalpaiguri. The petitioner shall cooperate with the investigation and shall meet the Investigating Officer, if so required to do any stage during the investigation, and shall not leave the jurisdiction of the concerned police station during the process of investigation.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)