

AD-15
Ct No.01
Jalpaiguri
14.09.2023
SP

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

CRM (A) 694 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 18.08.2023 in connection with Pradhannagar Police Station Case No. 274 of 2023 dated 16.04.2023 under Sections 447/326/307/34 of the IPC, corresponding to G.R. Case No. 1288 of 2023 presently pending before the Court of the learned Additional Chief Judicial Magistrate, Siliguri

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And

In the matter of: SHIVA CHETTRI

.... petitioner

Mr. Prajnadeepta Roy

Ms. Sohini Kundu

... for the petitioner

Mr. Aditi Shankar Chakraborty

Mr. Kallol Acharjee

Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel for the petitioner contends that other co-accused persons have already been granted bail. It transpires that charge-sheet has been filed. Insofar as the proposed addition of a Section under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, it is submitted that the said Section was not permitted to be clubbed with the other alleged offences.

2. From the materials on record, we find that the allegations under the 1989 Act was not permitted to be clubbed by the Magistrate.
3. Learned counsel for the de facto complainant places reliance on Section 14(2) of the 1989 Act and submits that in such cases, the Magistrate did not have the authority to look into the matter and it is for the specially designated Court under the said Act which could entertain such a matter.
4. We find from the language of Section 14, of the 1989 Act, that the said embargo is applicable only when the trial pertains to an offence under that Act.
5. Since the relevant Section under this Act has not been added at all, there is no occasion for there being any embargo at this stage, since there is no “trial” under such Act.
6. In view of the fact that the co accused persons have already been released on bail, we do not find any reason why the benefit of anticipatory bail ought not to be granted to the petitioner.
7. Accordingly, CRM(A) 694 of 2023 is allowed, thereby granting anticipatory bail to the petitioner subject to compliance of the stipulations contained in Section 438(2) of the Code of Criminal Procedure.
8. In the event of arrest, the petitioner shall be released on bail upon furnishing bonds of Rs.5,000/-, with two sureties of like amount each, one of whom must be local, to the

satisfaction of the Additional Chief Judicial Magistrate at Siliguri.

9. Furthermore, the petitioner shall also attend each date of trial when the same begins and shall not leave the territorial jurisdiction of the trial court without the leave of the jurisdictional court.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)