

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**05.09.2023
Court No.01
Item No.24
Avijit Mitra**

CRM (A) 700 of 2023

In Re:- An application under section 438 of the Code of Criminal Procedure;

And

In Re: Prem Bahadur Rai

...Petitioner

Mr. Joydeep Kanta Bhowmik,
Ms. Rikta Sarkar,
Mr. Sayanta Bhowmik,
Mr. Tushar Debnath

...for the Petitioner

Mr. Sourav Ganguly,
Ms. Sukanya Adhikary

...for the State

Apprehending arrest in connection with Jaigaon Police Station Case No.244 of 2022 dated 11.10.2022 under Sections 4/5 of Explosive Substances Act, the present application has been preferred.

Mr. Bhowmik, learned advocate strenuously argues that the petitioner has been falsely implicated. He is a Bhutan national and he was carrying substances alleged to be explosives with proper license from the appropriate authority. Let the documents, as placed, be kept with the records.

Drawing our attention to the order by which his prayer for anticipatory bail was turned down by the learned Sessions Judge on 19th June, 2023 Mr. Bhowmik submits that the Public Prosecutor in course of hearing submitted that the papers have been sent to the Bhutan Embassy for verification and a report is

still awaited. According to Mr. Bhowmik, for the laches on the part of the prosecution to obtain appropriate documents, the petitioner cannot be penalized. In the said conspectus, the petitioner's custodial interrogation is not necessary.

Per contra, Mr. Ganguly, learned advocate appearing for the State submits that the petitioner was driving a vehicle which was carrying explosives. Drawing our attention to the seizure, he submits that non-electric commercial detonators were seized. The gravity and magnitude of the offence warrants interrogation of the petitioner and as such the petitioner's prayer needs to be refused.

Having heard the learned advocates and considering the materials in the case diary, the gravity of the offence, its ramifications and the extent of complicity of the petitioner, we are not inclined to exercise discretion in his favour and his prayer is refused.

The application for anticipatory bail being CRM (A) 700 of 2023 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Lapita Banerji, J.)

(Tapabrata Chakraborty, J.)