

October 10, 2023.

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

CRM(A) 771 of 2023

In re : An application for bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 08.9.2023 in connection with Mekhliganj Police Station Case No. 49 of 2023 dated 19.02.2023 under Sections 306 of the IPC.

In the matter of: Abdul Jalil

.... Petitioner.

Mr. Sudip Guha

... for the Petitioner.

Mr. Kallol Acharjee,
Mr. Dhimal Sil

... for the State.

This present application has been filed under Section 438 Cr.P.C. to renew the prayer for pre-arrest bail which was turned down by a Co-ordinate Bench of this court on 9th June, 2023.

The petitioner submits that since charge-sheet has been submitted the petitioner is renewing his prayer for pre-arrest bail. He submits that one of the co-accused persons has been given benefit under Section 438 Cr.PC.

Learned Advocate appearing for the State vehemently opposes the prayer for pre-arrest bail. He submits that petitioner's subsequent application for pre-arrest bail cannot be entertained. In a judgment of Sudip Sen, reported in (2010) CRLJ page 4628, the Hon'ble Constitution Bench of this court held that a person whose prayer for pre-arrest bail has been rejected can renew his prayer for getting benefit under Section 438 Cr.PC but subject to the condition that there must be some subsequent

development of the facts and circumstances of the case. Filing of the charge-sheet is natural consequence of initiation of a criminal case. If criminal case is initiated on the basis of a complaint lodged by any person either final report will be submitted by the Police Authority or charge-sheet will be submitted. Filing of charge-sheet cannot be treated as subsequent development in the facts and circumstances of this case.

Considering these aspects, we are of the view that petitioner's second application for pre-arrest bail cannot be entertained.

Accordingly, the application being CRM(A) 771 of 2023 is rejected.

(Partha Sarathi Chatterjee, J.)

(Md. Nizamuddin, J.)