

October 12, 2023.

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

CRM(A) 850 of 2023

In re : An application for bail under Section 438 of the Code of Criminal Procedure, 1973 filed on 19.9.2023 in connection with Mathabhanga Police Station Case No. 45 of 2023 dated 27.01.2023 under Sections 306/34 of the IPC.

In the matter of: Himangshu Das

.... Petitioner.

Mr. Subhasish Misra,
Mr. Swarup Das,
Mr. Satyajit Paul

... for the Petitioner.

Mr. Ujjwal Luksom,
Mr. Sourav Ganguly

... for the State.

Heard learned Advocates appearing for the parties.

This is an application for anticipatory bail under Section 438 of the Cr.P.C. Learned Advocate appearing for the petitioner submits that co-accused persons have been enlarged on bail. The present petitioner is standing on the same footings as the co-accused persons. He submits that the petitioner has been falsely implicated in this case and it would not be proper to keep the petitioner in the custody in the facts and circumstances of the case and the petitioner can be given the benefit under Section 438 of the Cr.P.C.

Learned Advocate appearing for the State opposes the prayer for pre-arrest bail of the petitioner.

Perused the case diary and other materials on record. From the record it is explicit that the co-accused persons are enlarged on bail.

Considering these aspects and upon hearing the learned Advocates for the respective parties, we are of the view that the custodial interrogation of the present petitioner is not necessary and the petitioner is entitled to get the benefit under Section 438 Cr.P.C.

In the event of arrest, the petitioner may find bail upon furnishing a bond of Rs.10,000(Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Ld. ACJM, Mathabhanga subject to the condition that the petitioner shall meet the Investigating Officer once in a week until further order of this court and shall not leave the jurisdiction of the local Police Station without the leave of the concerned court. The petitioner will also abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

(Partha Sarathi Chatterjee, J.)

(Md. Nizamuddin, J.)