

01.02.2024
(D/L 3)
Ct. No.1
(Allowed)
(SKB)

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

C.R.M.(A) 73 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Pradhan Nagar P. S. Case No.140 of 2023 dated 03.03.2023 under Section 306 of the Indian Penal Code (G.R. Case No.683 of 2023).

In the matter of : Kezo Dorjee Bhutia
@ Dasho @ K. Bhutia

... Petitioner

Mr. Arnab Sengupta,
Mr. Dhiraj Lakhotia,
Ms. Radhika Agarwal,
Ms. Khushi Kundu

... for the petitioner

Mr. Kallol Acharjee,
Mr. Kallol Nag

... for the State

1. Heard learned Counsel for the parties.
2. Charge-sheet has already been filed against the present petitioner and one Rahul Gupta, has already been released on regular bail.
3. Learned counsel for the State objects to the release of the petitioner on anticipatory bail on the ground of difference of the opinion in the post-mortem report and the opinion of the scientific officer of the SFSL. When charge-sheet has already been filed under Section 306 IPC, it is not open for learned counsel for the State to depart from the charge-sheet and say that the SFSL report is suggestive of

strangulation. Furthermore, the aforesaid aspect is not the domain of a scientific officer but the domain of a medical officer.

4. Be that as it may, this question may be raised, if so advised, at the time of framing of charge but this is not the appropriate stage.
5. On perusal of the statement of the witnesses recorded under Section 161 Cr.P.C., we do not find any material worth and credence to hold the present petitioner guilty of the charge, at least *prima facie*.
6. Regard being had to the facts and submission, factum of permanent residence of the petitioner, nature of allegation, nature of evidence and completion of investigation, it is directed that the petitioner shall surrender before the learned ACJM, Siliguri within 15 days from today in the G.R. Case No.683 of 2023 arising out of the aforesaid P.S. case.
7. On his appearance and application for bail, he shall be released on bail by the aforesaid court on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
8. Accordingly, the prayer for the anticipatory bail is allowed.
9. The applications being CRM(A) 73 of 2024 is disposed of.

10. The learned court below is hereby directed to act upon the server copy or certified copy of this order.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)