

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

08.03.2024

Court No.1
Item.108
(Srimanta)

CRM(A) 123 OF 2024

In Re: An application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure, 1973 filed in connection with Maynaguri Police Station Case No.285/2023 dated 18.07.2023 under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act,1985.

And

In the matter of: **Gopal Barman.**

. . .Petitioner.

Mr. Jaydeep Kanta Bhowmik,
Ms. Rupa Basu,
Mr. Sayantan Bhowmik,
Mr. Shubham Kumar,
Ms. Rikta Sarkar

... For the petitioners.

Mr. Nilay Chakraborty,
Mr. Kallol Nag

...For the State.

1. The petitioner has been described as the owner of the vehicle in the charge-sheet.
2. Learned Counsel appearing for the petitioner seeks to take recourse to Section 29 of the NDPS Act, 1985 which deals with punishment for abetment and criminal conspiracy. Counsel submits that there has to be an active ingredient of instigation

or adding the commitment of an offence which is absent in the facts of the present case.

3. Learned Counsel appearing for the prosecution submits that the petitioner's liability would arise from the fact of the petitioner being the registered owner of the vehicle.
4. We have considered several orders passed by Coordinate Benches as well as by one of us sitting in a Division Bench on similar facts where the petitioner, despite being the owner of the vehicle, was granted anticipatory bail on the fact of narcotic substance not being recovered from the possession of the petitioner.
5. The facts of the present case fall on a similar footing as those of the orders placed before us since admittedly, no narcotic substance was recovered from the possession of the petitioner. We refer to *Rajjack Ali (CRM/9264/2020)* which is an application for anticipatory bail, *Prabal Roy (CRM(A)/36/2023)*, *Ranveer Kumar Yadav @ Ranveer Yadav (CRM(A)/128/2024)* and *Gadai Biswas (CRM/183/2021)*, all of which were applications for anticipatory bail and gave relief to the petitioner in terms of grant of anticipatory bail for an alleged offence under the NDPS Act, 1985.
6. We accordingly grant the prayer for anticipatory bail.

7. We accordingly direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), with two sureties of like amount each, one of who must be local, to the satisfaction of the Arresting Officer and also comply with the conditions laid down under Section 438(2) of The Code of Criminal Procedure, 1973. The petitioner shall cooperate with the investigation and make himself available for questioning to the Investigating Officer once in a fortnight until further orders. The petitioner shall also not intimidate any witnesses or tamper with any evidence in any manner whatsoever.
8. The application for anticipatory bail being CRM (A) 123 of 2024 is allowed and disposed of in terms of the above.

(PRASENJIT BISWAS,J.)

(MOUSHUMI BHATTACHARYA,J.)