

23.02.2024

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

COURT : 01
ITEM : 08
MATTER : 438
STATUS : DNM
BENCH-ID : 1370
TRANSCRIBER : NANDY

CRM (A) 166 of 2024

In Re:- An application for **anticipatory bail** under section **438** of the Code of Criminal Procedure filed on 07.02.2024 in connection with Kalimpong Police Station Case No. 176 of 2017 dated 01.07.2017 under Sections 436/34 of the Indian Penal Code (G.R. Case No. 213 of 2017)

And

In the matter of: **Royal Rai & Anr.**

.....Petitioners

Mr. Janardan Periwal, Advocate

.....for the Petitioners

Mr. Aditi Shankar Chakraborty, Learned A.P.P.

Mr. Biswarup Ray, Advocate

.....for the State

1. Apprehending arrest in connection with Kalimpong Police Station Case No. 176 of 2017 dated 01.07.2017 under Sections 436/34 of the Indian Penal Code, the petitioners have filed the instant application for anticipatory bail.
2. The instant application for anticipatory bail is taken out for the reason that the FIR was lodged under Section 436 of the Indian Penal Code and the punishment under this section is of such nature which is non-bailable. Interestingly, a copy of the charge-sheet submitted by the Investigating Officer before the jurisdictional Court is also annexed with the instant application despite the fact that the Investigating Officer does not find any ingredients of Section 436 of IPC and, in fact, ingredients under Section 435/34 of the IPC was found.
3. Learned Counsel for the State submits that the charging section in the charge-sheet is bailable offence and, therefore, the application for anticipatory bail is not maintainable.
4. In such view of the matter, the application being **CRM (A) of 166 of 2024** is **dismissed as 'not maintainable'**.

(Harish Tandon, J)

(Supratim Bhattacharya, J)

