

22.04.2024
Court No.01
Item No. 168
Rejected

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

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CRM (A) 178 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Kotwali Police Station Case No. 98 of 2024 dated 13.02.2024 under Section 21(c) of the NDPS Act.

And

In Re: **Subhash Chandra Roy**

Petitioner

Mr. Jaydip Kanti Bhowmik
Mr. Sayantan Bhowmik
Mr. Subham Kumar
Ms. Rikta Sarkar
Ms. Jasmin Hoque

For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Biswarup Roy

For the State

At the time of hearing of the instant application for anticipatory bail, Mr. Bhowmik, learned counsel appearing on behalf of the petitioner submits before this Court that the petitioner cannot be implicated as a co-accused since nothing was recovered from the conscious possession of the present accused petitioner and on the basis of the materials as placed before this Court it would reveal that on account of financial stringency he has authorized some other person namely; Monoj Roy (who is FIR named accused) to ply and/or to use to the said two wheeler wherefrom the alleged contraband articles were claimed to have been seized.

While opposing the prayer for anticipatory bail, learned counsel for the State submits before this Court that from the CDR as collected in course of investigation, it would reveal that the present petitioner was in constant touch

with the FIR named accused person and the tower location of the present accused petitioner is found to be in the close proximity of the FIR named accused person.

Such being the position, we are of the considered view that the petitioner is not able to rebut the statutory restriction under Section 37 of the NDPS Act. Accordingly, the prayer for anticipatory bail of the petitioner is considered and rejected.

CRM (A) 178 of 2024 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Soumen Sen, J)

(Partha Sarathi Sen, J)