

19.06.2024
(D/L 36)
Ct. No.1
(Allowed)
(SKB)

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

C.R.M.(A) 453 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Jalpaiguri Kotwali P. S. Case No.134 of 2024 dated 27.02.2024 under Sections 379/411 of the Indian Penal Code.

In the matter of : Asyar

... Petitioner

Mr. Debjit Kundu

... for the petitioner

Mr. Tapan Bhattacharjee,
Mr. Dhiman Sil

... for the State

1. Heard learned counsel for the petitioner and the learned State counsel.
2. There is a recovery of 66 cartoons of cigarette loaded on a truck which has led to the lodging of the present case.
3. Leaned counsel for the petitioner submits that for the offence under Section 379 of the IPC to be made out, there was required to be a pre-existing complaint of theft pending before the police authorities, otherwise it cannot be said to be that the goods which recovered were stolen.
4. Learned counsel for the State submits that since valid papers could not be produced, the police have applied Section 379.
5. Considering the rival submissions, we are of the view that the petitioner is entitled to the privilege of anticipatory bail.

6. Accordingly, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest arising out of the aforesaid P.S. case on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the conditions that the petitioner shall cooperate in the investigation as and when required. Petitioner is directed to appear before the IO once in a fortnight on the day and time fixed by the IO for the purpose of investigation till submission of the charge-sheet.
7. Accordingly, the prayer for the anticipatory bail is allowed.
8. Within 15 days from today petitioner is directed to appear before the I.O. along with a server copy or certified copy of this order.
9. The application being CRM(A) 453 of 2024 is disposed of.
10. The Arresting Officer is hereby directed to act upon the server copy or certified copy of this order.

(Madhuresh Prasad, J.)

(Partha Sarathi Chatterjee, J.)