

JPD-215
Ct No.01
02.08.2024
S. Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (A) 474 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Sitai Police Station Case No. 216 of 2023 dated 24.09.2023 under Sections 341/325/326/506/34 of the Indian Penal Code, 1860

And

In the matter of: Shibu Barman

....petitioner

Mr. Surojit Basu
Mr. Ratan Chandra Roy
Mr. Sayantan Bhowmik

... for the petitioner

Mr. Abhijit Sarkar
Ms. Namrata Das

...for the State

1. Learned counsel for the petitioner argues that on a previous occasion in a joint application for anticipatory bail filed by the petitioner and two other co-accused persons, the prayer of the other two co-accused persons was allowed on December 6, 2023 in CRM(A) 939 of 2023 whereas the petitioner's plea was turned down on the observation that the petitioner had fired at the victim and thereafter assaulted him.
2. It is submitted that since no fire arm was recovered and/or no *prima facie* proof of firing is seen from the records, the

other part of the involvement of the petitioner as alleged by the victim, relating to physical assault, should also be disbelieved *prima facie*.

3. Learned counsel for the State opposes the prayer for bail and places reliance on the statements of the victim under Section 161 of the Code of Criminal Procedure. From there, we find that there is clear corroboration of the allegation that the present petitioner hit the victim on his head with an iron rod.
4. We are unable to accept the contention of the petitioner that in the event the firing component of the allegation goes *prima facie*, the other component is automatically to be disbelieved.
5. As such, we find sufficient statements on record to implicate the petitioner as the principal accused in the offence. Thus, we are not inclined to grant anticipatory bail to the petitioner at this stage.
6. Accordingly, CRM(A) 474 of 2024 is dismissed, with liberty to the petitioner to surrender before the jurisdictional Court and seek regular bail.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)