

25.11.2024
Item No.174
Court No.1
(GB)

Calcutta High Court
In the Circuit Bench at Jalpaiguri

CRM (A) 870 of 2024

In Re: - An application for anticipatory bail under section 438 of the Code of Criminal Procedure, 1973/Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Coochbehar Sadar Women** Police Station Case No.110 of 2022 dated 30.08.2022 under Section 6 of the POCSO Act, 2012

And

In the matter of: **Haridas Das @ Hari Das**

....Petitioner.

Mr. Kumar Shantanu,
Ms. Puja Chakraborty,
Ms. Nikita Paul

...for the Petitioner.

Mr. Kollol Acharjee,
Mr. Sagnick Sankar Sikdar

... for the State.

Mr. Ananda Paul,
Mr. Abhishek Singh,
Mr. Sandip Guha Roy

... for the De facto Complainant.

1. This application has been presented with a renewal of the prayer for pre-arrest bail. Records reveal that a coordinate Bench of this Court by an order dated September 11, 2024 declined to extend the benefit under Section 438 Cr. P.C. in favour of the petitioner.
2. According to the petitioner, at the relevant time there was no medical report. The report has been subsequently collected by the investigating agency, wherefrom it is evident that such medical report does not support the prosecution case. Hence, he has filed this application for pre-arrest bail on the ground that the circumstances have changed on account of filing of charge-sheet.
3. The learned advocates for the State as also the de facto complainant oppose the prayer for bail.

4. A Hon'ble Special Bench in the decision of ***Sudip Sen versus State of West Bengal*** reported in ***2010 Cr LJ 4628*** held that a person will be entitled to move the application for anticipatory bail before the court of sessions or the High Court, only on the ground of substantial change in the facts and circumstances of the case due to subsequent events. However, such person would not be entitled to move the second application on the ground that the court on earlier occasion failed to consider any particular aspect or materials on record or any point which was available, but had not been agitated at the time of placing the earlier application. Filing of charge-sheet is not a substantial change in the facts and circumstances.
5. If this application is entertained, the same will go against the guidelines laid down by the Hon'ble Special Bench. Accordingly, the prayer for anticipatory bail is rejected.
6. Accordingly, the application for anticipatory bail being CRM (A) 870 of 2024 is disposed of.
7. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)