

25.11.2024
SL No.125
srm/Mujahid
(Rejected)

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

C.R.M. (A) 887 of 2024

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973/Section 482 of the B.N.S.S. 2023 filed on **06.11.2024** in connection with **Kalchini** P.S. Case No. **99/2024** dated **25.08.2024** under Sections 21(c)/29 of the NDPS Act.

And

In the matter of: **Aditya Mahali**

....Petitioner

Mr. Sourav Ganguly,
Mr. Gopal Roy
Ms. Rishita Chakraborty

...for the Petitioner

Mr. Ujjwal Luksom,
Mr. Chattu Roy

...for the State

Learned Advocate representing the petitioner submits that based on the statement made by a co-accused, the petitioner has been implicated in the alleged offence. He submits that statements of the co-accused before the police officer has no evidentiary value and the same cannot be the basis to implicate the petitioner in the alleged offence. He submits that the benefit under Section 438 of the Code of Criminal Procedure corresponding to Section 482 of B.N.S.S., can be extended in favour of the petitioner on this ground.

Learned Advocate for the State produces the case diary. On the materials available in the case diary he vehemently opposes such prayer. He submits that the accused person fled

from the spot. Investigation is under process and at this stage, it would not be proper to grant pre-arrest bail to the petitioner.

Heard learned Advocates. Perused the case diary and other materials. The materials available in the case diary, prima facie, indicate that the contention of the petitioner is not correct. At this stage it would be premature to hold that custodial interrogation of the petitioner is not necessary.

The petitioner relied upon an unreported judgment of a coordinate Bench of this Court passed on October 10, 2023 in C.R.M.(A) No.4313 of 2023, in support of the proposition that anticipatory bail cannot be rejected on the basis of evidence of a co-accused before a police officer.

Prima facie, we find that the petitioner is an FIR named accused and he was the rider of the vehicle which was used in the commission of the offence. The petitioner fled away from the spot at the time of arrest.

Accordingly, the prayer for anticipatory bail is rejected.

(Partha Sarathi Chatterjee, J.)

(Shampa Sarkar, J.)