

22.05.2025
Sl. No.29
Ct. 28
NB

C.R.M. (A) 1703 of 2025

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Hogolberia PS Case No.194/2024 dated 18.08.2024 under Section 21(c)/29 of the NDPS Act.

And

In the matter of : Osman Saik ...petitioner

Mr. Subarna Bank.
...for the petitioner.

Mr. Antarikya Basu,
Mr. Akash Ganguly.
...for the State.

Learned counsel appearing on behalf of the petitioner submits that the only thing available against the petitioner is a statement of a co-accused, which is inadmissible in evidence. Charge sheet has been submitted.

Learned counsel appearing on behalf of the State opposes the prayer for anticipatory bail and submits that there was a face-off between the BSF personnel and the smugglers. Shots were fired and the BSF authorities could apprehend five of the accused and the others fled away. Standing on similar footing, the prayer for anticipatory bail of a co-accused was rejected by a Division Bench of this Court on 25.02.2025 in *CRM(A) 657 of 2025* and by this Court on 06.05.2025 in *CRM(A) 1485 of 2025*.

Considering the incriminating materials available in the case diary, the fact that there is a chance of identification of the petitioner, if apprehended, and the fact that the prayer for

anticipatory bail of a similarly circumstanced accused was turned down by this Court earlier, I am not inclined to grant anticipatory bail to the petitioner.

The application for anticipatory bail being **CRM(A) 1703 of 2025** is, thus, rejected.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)