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Calcutta High Court
In The Circuit Bench at Jalpaiguri
Criminal Miscellaneous Jurisdiction

C.R.M.(A) 613 of 2025

In Re.: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NDPS Case No. 46 of 2024 arising out of Ghoksadanga Police Station Case No. 389 of 2024 dated 30.07.2024 under Section 21(c)/29 of the NDPS Act.

Asraful Haque
Vs.
The State of West Bengal

Mr. Sudip Guha

...For the Petitioner

Mr. Nilay Chakraborty
Mr. Bhaskar Das

...For the State

Learned Counsel appearing on behalf of the petitioner submits that nothing was recovered from the possession of the present petitioner.

According to the prosecution case 899 bottles for cough syrup containing codeine phosphate was recovered from the possession of one co-accused Majedul Mia.

His further contention is that the petitioner has been falsely implicated as he was not the owner of the vehicle at the relevant time wherefrom the contraband was recovered and in support of the same he has annexed one document issued by the regional Transport Authority dated 08.04.2025 which discloses that he became the owner of the vehicle on 09.09.2025 but the seizure was allegedly made on 30th July, 2024.

It is submitted on behalf of the petitioner that though he approached before the Sessions Judge with the same prayer but subsequently the said application was not pressed and therefore the

same was rejected, being anticipatory application No. 628 of 2025 vide order dated 20.05.2025.

In view of the judgment pronounced by the Apex court in Mohammed Rasal C. & Anr. Vs. State of Kerala & Anr. (SLP (Crl.) No. 6588 of 2025, order dated 08.09.2025) the petitioner was required to move before the concerned Sessions Judge first and he ought not to have directly approached before this Court as the Apex Court is clearly of the view that the hierarchy of Courts demands that no person seeking such remedy should be encouraged or allowed to directly approach the High Court for exercising jurisdiction under Section 482 of the BNSS by bypassing jurisdiction of concerned Sessions Court

Having considered the latest position of law, liberty is given to the petitioner to approach before the concerned Sessions Judge for making a similar prayer for anticipatory bail within a period of two weeks from this date. The Investigating Agency shall not arrest the petitioner during the said period of two weeks or till filing such application whichever is earlier. In the event of making any such application before the concerned Sessions Judge, he will dispose of such application on merit without being influenced by any observations made herein

Accordingly, the application for anticipatory bail, being C.R.M.(A) 613 of 2025 is disposed of.

(Dr. Ajoy Kumar Mukherjee, J.)