

23.03.2026
Court No.6
Item No.11
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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

CRM (A) 91 of 2026

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Suraksha Nagarik Sanhita in connection with Madarihat Police Station Case No. 37 of 2025 dated **02.04.2025** under Sections 21 (c)/25/27A of the NDPS Act.

And

In the matter of: **Motahar Hossain @ Motabar Hossain**

.... Petitioner

Mr. Arijit Ghosh

...for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP

Mr. Kallol Acharjee

Mr. Ujjwal Luksom

...for the State

Learned counsel appearing on behalf of the petitioner submits that this is a second application for anticipatory bail under changed circumstances. The change in circumstance is that in the meantime, the principal co-accused was granted bail and charge sheet has been submitted.

Learned counsel appearing on behalf of the State opposes the prayer for anticipatory bail. He submits that charge sheet has been submitted under the same provisions under which the FIR was registered. Therefore, there is no material change in circumstance to warrant entertaining a second application for anticipatory bail. Quite significantly, the petitioner has not disclosed the fact that after rejection of the first application for anticipatory bail, he had moved a Special Leave Petition before the Hon'ble Supreme Court and such application was rejected by the Hon'ble Apex Court by an order dated 12.12.2025. He relies on a copy of such order, which is taken on record.

First, there is a material suppression of fact that the petitioner had challenged the order of rejection of the first anticipatory bail before the Hon'ble Apex Court and the same was turned down.

Submission of charge sheet is a natural consequence of registration of an FIR. This is not a material change in circumstance unless the charge sheet is submitted under lesser charges.

Grant of bail to another co-accused is also not a substantial change in circumstance.

Considering the above, the second application for anticipatory bail is dismissed as not maintainable.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)