



Court No.3.

HIGH COURT OF SIKKIM

Record of proceedings

BAIL APPLN. No.01 of 2022

HASTA BIR RAI

.... APPLICANT

VERSUS

STATE OF SIKKIM

.... RESPONDENT

Date:23.03.2022

CORAM

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Applicant : Mr. A. Moulik, Senior Advocate with Ms. K. D. Bhutia and Mr. Ranjit Prasad, Advocates.

For Respondent : Mr. Sudesh Joshi, Public Prosecutor.
Mr. Yadev Sharma, Additional Public Prosecutor.
Mr. Sujan Sunwar, Assistant Public Prosecutor.

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Heard Mr. A. Moulik, learned Senior Counsel for the applicant who is seeking anticipatory bail under section 438 of the Code of Criminal Procedure, 1973 (Cr.P.C.) before this court. A similar application was rejected by the learned Sessions Judge, East Sikkim at Gangtok vide order dated 27.12.2021.

The FIR is dated 03.09.2021, the applicant has not been arrested as yet.

Mr. Sudesh Joshi, learned Public Prosecutor submits that although, section 41A Cr.P.C. notice has been issued to the applicant he has not joined in the investigation. It is further submitted that the applicant has not been arrested in view of the judgment of the Supreme Court in ***Arnesh Kumar vs. State of Bihar***¹.

Mr. A. Moulik, learned Senior Counsel contends that although, the State submits that section 41A Cr.P.C. notice has

¹ 2013 SCC OnLine Pat 770



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been issued to the applicant he has not received it as yet and if he does so he is willing to join the investigation.

In that view of the matter the State is directed to handover a copy of the section 41A Cr.P.C. notice to the learned counsel on record representing the applicant who shall handover the same to the applicant. On receipt the applicant shall immediately join in the investigation and not evade its process.

In view of the submissions made by the learned Public Prosecutor nothing further remains to be considered in this petition which is accordingly disposed.

Judge