

Court No. 16

CRM 7902 of 2020

24.11.2020

(DL 31)

(S. Banerjee)

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with N.D.P.S. Case No. 128 of 2015 dated 16.11.2015 under Sections 20(b)(ii) (c)/25/29 of NDPS Act,.

Dismissed

And

In the matter of: Jakir Hossain Gayen

...petitioner

Mr. Shahan Shah, Ld. Advocate

... for the petitioner

Mr. Y. J. Dastoor, Ld. ASG

Mr. Phiroze Edulji, Ld. Advocate

Mr. Debu Chowdhury, Ld. Advocate

... for the Union of India

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

This is a case of complete abuse of the process and it is difficult to accept that Advocate-on-Record for the petitioner would be unaware of the circumstances.

The petitioner applied for anticipatory bail in this case in the year 2017, but the same was rejected by an order of April 19, 2017. The next petition, pertaining to the case of the year 2015, was made earlier this year and stood rejected by an order of August 18, 2020. The two previous petitions were numbered as CRM 2890 of 2017 and CRM 5547 of 2020.

Yet, the first paragraph in the present petition claims that the petitioner had “never moved any application for anticipatory bail under section 438 of the Code of Criminal Procedure, 1973 before Learned Sessions Court or this Hon’ble High Court.....”. Such statement, as quoted above, is false and false to the knowledge of the deponent of the affidavit verifying

the petition. The affidavit was affirmed by one Rabiul Gayen, the son of the petitioner herein. It is necessary and in the interest of justice and the majesty of the process that proceedings under Section 340 of the Code be initiated against the deponent of the affidavit. It is likely that such son had also affirmed the affidavits verifying the previous petitions.

As far as the petitioner is concerned, he should immediately surrender. At any rate, the State and the Union of India should not spare any effort in arresting the petitioner, whereupon the petitioner will not be entitled to obtain bail till the conclusion of the trial in the matter.

The Registrar-General will lodge the appropriate complaint with the Chief Metropolitan Magistrate, Kolkata immediately.

Advocate-on-Record for the petitioner, Mr. Shahan Shah, will ensure that the deponent of the affidavit is informed of this order. Mr. Shah will also meet the Registrar-General immediately along with a copy of this order and furnish the fullest particulars of the deponent of the affidavit to the Registrar-General.

CRM 7902 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)