

CRM 1806 of 2021

In re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Nischinda PS Case No. 346/2013 dated 26.11.2013 under Sections 399/402 of the Indian Penal Code.

In the matter of : **Daljit Singh @ Lucky**

..... petitioner

Mr. Manjit Singh

.....For the petitioner

**Mr. Sudip Ghosh
Mr. Apurba Kumar Datta
Mr. Bitasok Banerjee**

.....For the State

On *suo motu* complaint by police, the Nischinda Nischinda PS Case No. 346/2013 dated 26.11.2013 under Sections 399/402 of the Indian Penal Code was registered against the petitioner including six other co-accused persons. In connection therewith, the petitioner is apprehending arrest as he has come to know that the police officer of Belur Police Station is searching for him. The investigating officer has already investigated the case and submitted charge-sheet in which the petitioner was shown as absconder. It is pointed out that two of the accused persons were granted bail under Section 439 of the Code of Criminal Procedure and one of them was granted anticipatory bail by the learned Sessions Judge.

Mr. Sudip Ghosh, learned counsel for the State submits on instruction that since the petitioner was absconding and the process of proclamation and attachment is complete, the petitioner is not legally entitled to anticipatory bail in view of the

principle laid down by the Hon'ble Supreme Court in Lavesb Vs. State of NCT of Delhi (2012) 8SCC 730. However, Mr. Ghosh further submits that there is no such order of declaring the petitioner as a proclaimed offender and there are no antecedents against the petitioner.

Mr. Manjit Singh submits at Bar that the petitioner is resident of his locality and there is no reason for his absconding from the case, rather in the recent past having learnt about the pending case against him, he is praying before this Court for admitting him on anticipatory bail and since the accused petitioner is not declared as proclaimed absconder, there is no legal impediment in granting anticipatory bail.

We fully agree with the proposition of law laid in Lavesb case (supra) wherein it has been observed in paragraph 10 that normally, when the accused is absconding and declared as a proclaimed offender, there is no question of granting anticipatory bail.

We are of the view that the offence alleged is under sections 399/402 of IPC which are handy sections to nab a person as an accused and further that the petitioner is not a proclaimed absconder as there is no compliance of provision of Section 82 in harmony with Section 83 of the Criminal Procedure Code shown before us, ergo, we are inclined to admit the petitioner on anticipatory bail in this peculiar facts of the case.

We accordingly direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.5,000/-

(Rupees Five Thousand Only) with two sureties of like amount each to the satisfaction of the arresting officer and subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The application being CRM 1806 of 2021 is allowed and disposed of accordingly.

(Saugata Bhattacharyya, J.)

(Shivakant Prasad, J.)