

09.08.2023
ML. 156
Court No. 29
Sourav

C.R.M. (A) 2936 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Moyna** Police Station Case No. **353** of **2021** dated **30.12.2021** under Sections **498A/304B/34** IPC (corresponding to G.R. Case No. 3378 of 2021).

And

In the matter of: **Sk Asek @ Sekh Asek**

....petitioner.

Mr. Sk. Nezamuddin

...for the petitioners.

Mr. Rudradipta Nandy, Ld. APP
Mr. Ashok Das

... for the State.

1. Heard learned Counsel for the parties.
2. The petitioner is the husband of the deceased. This is the second application for anticipatory bail after rejection of the earlier prayer made by the petitioner by the co-ordinate bench.
3. It is submitted by the learned Counsel for the petitioner that two accused persons including present petitioner had moved the earlier petition for anticipatory bail being CRM (A) 1855 of 2022 and vide order dated 25.04.2022, the prayer for anticipatory bail was rejected. The co-petitioner of the present petitioner moved Hon'ble Supreme Court and he was granted the benefit of anticipatory bail. The second application for anticipatory bail has been filed on the ground of parity and changed circumstance.
4. In view of the settled law, we cannot deviate from the practice when there is no supervening circumstance and especially when the order passed by Hon'ble Supreme Court is an order

in personem.

5. Accordingly The application being **CRM (A) 2936 of 2023** is dismissed.
6. However, the petitioner may appear before the competent court in seisin over the matter within 15 days from today by giving three days advance notice to learned Public Prosecutor attached to that Court and on his appearance if he files any application for bail before the said Court, the same shall be disposed of on merit in accordance with law on the same day. If ground of parity is canvassed before the learned Court below, said ground shall be considered by the learned Court below while disposing of the bail application.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

