

11.10.2023  
SL. 15  
Court No. 29  
Suvayan

**C.R.M. (A) 3390 of 2023**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Summon No. PMLA/SUMMON/KLZO/2023/634** dated **25.07.2023** received via Email on **27.07.2023** Virtual Mode Case No. **ECIR No. KLZOI/01/2021/1426** issued by Addl. Director, Enforcement Directorate under provisions of the Prevention of Money Laundering Act, 2002.

And

In the matter of: **Shri Prakash Chandra Das**

....petitioner.

Dr. Rajib Kumar Kundu

...for the petitioner.

Mrs. Debjani Ray

...for the opposite party.

1. Heard learned Advocate for both the parties.
2. The application for anticipatory bail filed by the present petitioner was dismissed on merit vide order dated 14.02.2022 passed in CRM 3009 of 2021. The second such application was dismissed vide order dated 31.03.2022 passed in CRM 8390 of 2021.
3. Learned Counsel for the petitioner submits that on both the occasion the petition should have been disposed of on the ground of default/non-prosecution and it should not have been disposed of on merit.
4. We are, however, constrained to observe that there is no bar for a petition for bail or anticipatory bail to be disposed of on merit in absencia of Counsel for the petitioner or the petitioner. It is the choice of the petitioner to appear or not to appear after filing of the application. If the Court finds sufficient material from the records produced by the respondent not to exercise the discretion under Sections 438 or 439 Cr.P.C., subsequently a fresh petition for anticipatory bail or bail cannot be filed on the ground that such

application filed earlier was disposed of in absence of the petitioner or his Counsel. Such a fact is also not a supervening circumstance warranting reconsideration of the subsequent prayer for anticipatory bail.

5. We are constrained to take such a stand in view of assertion of the petitioner in paragraph 11 to the effect that no such application was preferred or moved and the present petition for anticipatory bail is one moved for the first time. Such a misleading averment in the bail petition itself is contemptuous and smacks *mala fide* about the intention of the petitioner.
6. In view such fact, we impose cost of Rs. 25,000/- on the petitioner to be paid to Calcutta High Court Bar Association within 15 days of the reopening of the Court after Puja Vacation. If the amount so imposed is not paid by the time prescribed appropriate proceeding for recovery of the amount shall be initiated against the petitioner by the Registry of the Court.
7. Let a copy of the order be forwarded to the learned Registrar General, High Court Calcutta for doing her needful.
5. The application being **CRM (A) 3390 of 2023** is dismissed.

**(Chitta Ranjan Dash, J.)**

**(Partha Sarathi Sen, J.)**

