

04.10.2023
(D/L 57)
Ct. No.29
Dismissed
(SKB)

CRM (A) 4053 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Panrui P.S. Case No.170 of 2014 dated 16.11.2014 under Sections 147/148/149/302/506 of the Indian Penal Code and Section 27 of the Arms Act corresponding to G.R. Case No.1061 of 2014.

In the matter of : Sk. Giasuddin @ Sk. Gias

... Petitioner

Mr. Somopriyo Chowdhury,
Mr. A. Z. Mondal,
Ms. Shahnaz Parveen,
Mr. Dipayan Das
Mr. Mriganka Patra

... for the petitioner

Mr. Saibal Bapuli, ld. APP
Mr. Arijit Ganguly,
Mr. Arani Bhattacharya

... for the State

1. Heard learned counsel for the parties.
2. The proclamation in the case under Section 82 Cr.P.C. has been issued and published on 12.6.2023 as submitted and substantiated through record by Mr. Saibal Bapuli, learned APP.
3. The present petition for anticipatory bail is filed on 06.9.2023 much after issuance of proclamation. As a matter of precedent of judicial dictum, the present petition for anticipatory bail is not maintainable after issuance of proclamation.

4. Learned counsel for the petitioner, however, submits that the petitioner had moved before the Sessions Court under Section 438 Cr.P.C. in the year 2019 and the prayer was rejected vide order dated 25th October, 2019 passed in Criminal Miscellaneous Case No.933 of 2019 and the present petition for anticipatory bail is a continuation of the earlier proceeding under Section 438 Cr.P.C. before the court of Sessions. It is further submitted that the petitioner having moved the competent court for anticipatory bail in the year 2019, he cannot be said to be an absconder necessitating issuance of proclamation under Section 82 Cr.P.C. and, therefore, the present petition is maintainable.
5. The arguments advanced by learned counsel for the petitioner is too farfetched and do not commend to us. Laxity of a person for about four years after rejection of his prayer for anticipatory bail cannot be countenanced by any logic to justify diligence and to submit that the petitioner was not absconder. If the petitioner is a law abiding person, it was his duty to either surrender after rejection of his prayer for anticipatory bail by the court of sessions or to renew his such prayer before this court. It is settled law that any action under law especially in criminal law should be taken up in quite promptitude because it is not the duty of either the investigating agency or the court to awake a sleeping bull. The

petitioner having not approached any court after 2019, filing the present petition after four years under Section 438 Cr.P.C. disposed of in 2019 cannot be said to be a continuation of the proceeding before the Sessions Court under Section 438 Cr.P.C. and the proclamation issued under Section 82 Cr.P.C. cannot be avoided on that ground. We, therefore, do not want to displace our view taken supra on the basis of submission advanced by learned counsel for the petitioner.

6. Accordingly, the prayer for anticipatory bail is rejected.
5. CRM(A) 4053 of 2023 is dismissed.
6. The photocopy of the notice of proclamation filed by learned counsel for State be taken on record.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)