

**C.R.M. (A) 5882 of 2022
with
IA No.: CRAN 2 of 2023**

**Milan Ghosh
Vs.
The State of West Bengal**

Mr. Sandipan Ganguly, Ld. Sr. Advocate
Mr. Arkadeb Bhattacharyya
... for the petitioner.

Mr. Rudradipta Nandy, Ld. APP
Mr. Subroto Roy
... for the State.

The application is taken up for consideration subsequent to the order dated January 16, 2023.

Petitioner applied for anticipatory bail being CRM (A) 5882 of 2022. Interim order was passed on such petition on December 21, 2022 requiring the petitioner to deposit a sum of Rs.10 lakhs with the learned Judge, Special Court, 1st Court, Malda within December 23, 2022. Petitioner was directed to deposit balance sum of Rs.40 lakhs on or before January 5, 2023. Upon receipt of a sum of Rs.10 lakhs and a sum of Rs.40 lakhs from the petitioner, the learned Judge, Special Court, 1st Court, Malda was directed to ensure that such sums were kept in interest bearing fixed deposit accounts with any nationalized bank. Such amount was directed to abide by the directions of the jurisdictional Court in respect of the police case or any other appropriate Court.

The petitioner filed a put up petition before the jurisdictional Court pursuant to the order dated December 21, 2022 when order

no.37 dated December 22, 2022 was passed by the jurisdictional Court.

Petitioner deposited a demand draft for Rs.10 lakhs which the learned Court accepted and kept the same on record.

Learned Court recorded that both the Special Public Prosecutor and the learned Advocate for another accused prayed to the Court to arrest the petitioner whenever he will appear in the Court room in this case.

The petitioner filed an interim application in the pending application for anticipatory bail being IA No.: CRAN 1 of 2022 which was dismissed as withdrawn on January 4, 2023.

The application for anticipatory bail was taken up for consideration on January 6, 2023 in presence of the learned Advocate for the State. The Court granted anticipatory bail to the petitioner after recording a finding that a sum of Rs.50 lakhs stands deposited to the jurisdictional Court to the credit of the police case.

On January 7, 2023, the petitioner surrendered before the jurisdictional Court. The petitioner filed a petition for bail and the copy of the order dated January 6, 2023 passed in the application for anticipatory bail granting anticipatory bail to the petitioner.

The learned Judge was, however, pleased to take the petitioner into custody and remand him to jail custody.

The learned Judge proceeded to frame charges against the petitioner and fixed January 21, 2023 for evidence.

Petitioner filed the present interim application being IA No.: CRAN 2 of 2023 seeking relief.

The second interim application was taken up for consideration

on January 16, 2023. However, on the prayer made on behalf of the petitioner, the same was directed to be listed on January 19, 2023. It was clarified that the pendency of the application will not prevent the petitioner from availing his rights.

The Court is informed that the petitioner applied for bail.

Such bail application is returnable on January 20, 2023 before the Coordinate Bench.

Learned Advocate appearing for the petitioner draws the attention of the Court to Calcutta High Court Criminal (Subordinate Courts) Rules, 1985 and particularly to Rule 502 onwards.

Despite an order granting anticipatory bail by the High Court, the jurisdictional Court chose to take the petitioner into custody in the same police case where the petitioner was afforded a pre-arrest bail. This conduct is not appreciated.

In view of the petitioner applying for bail in the same police case and such bail application coming up before the Coordinate Bench, we refrain ourselves from making any further comments or observations at this stage.

List the application on January 24, 2023.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)