

22.03.2024
tkm/ct 28
sl no. 48

C.R.M. (A) 298 of 2024

In Re : An application for cancellation of anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Entlly PS case no. 243 of 2022 dated 29.7.2022 under section 420 of the IPC
And

In Re : Sunita Elizabeth Mukherjee @Elizabeth Suita Mukherjee @
Nadra Aman @ Liza petitioner

Mr. Sourat Nandy
..... for the petitioner

Mr. Debasish Roy, ld PP
Mr. R D Nandy
..... for the OP

1. In response to order dated 8th March 2024 Director Economic Offence Wing is present.
2. Learned Public Prosecutor submits that offences under sections 3 and 4 of the West Bengal Protection of Interest of Depositors in Financial Establishment Act have been added to the FIR. Hence, prayer for anticipatory bail is not maintainable.
3. Learned lawyer for the petitioner submits offences have been belatedly added. Application for pre-arrest bail was filed prior to the addition of the said sections.
4. A court while considering the prayer for anticipatory bail must consider the nature of offence in the FIR at the time of consideration of prayer for anticipatory bail and not at the time of its institution. Hence, this court has to take into consideration the addition of offences under sections 3 and 4 of the West Bengal Protection of Interest of Depositors in

Financial Establishment Act in the array of offences in the FIR.

5. After addition of the offences under the said Act, the bar under section 21 comes into play and the application for anticipatory bail is rendered as not maintainable.
6. We however note petitioner had cooperated during investigation and is on regular bail in other cases.
7. In this backdrop, we give liberty to the petitioner to appear before the jurisdictional court within four weeks from date and pray for regular bail.
8. In the event, petitioner appears and prays for regular bail within the aforesaid timeframe, the said court shall consider her prayer for regular bail on the same date in light of the aforesaid observations and in accordance with law.
9. Personal appearance of Director (Economic Offences Wing) is noted and dispensed with.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)