

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (DB) 2236 of 2024

**In re: An application for bail under Section 439 of the Code
of Criminal Procedure/Section 483 of the BNSS.**

- A n d -

In the matter of: Alok Kumar Sarkar.

.....Petitioner.

Before: The Hon'ble Justice Arijit Banerjee

The Hon'ble Justice Apurba Sinha Ray

For the petitioner : Mr. Milon Mukherjee, Adv.
Mr. D. Manna, Adv.

For the State : Mr. Debasish Roy, Adv.
Mr. Rudradipta Nandi, Adv.
Mr. Nahid Ahmed, Adv.

For orders on : 01.10.2024

Arijit Banerjee, J.: -

1. The petitioner is an Ex Deputy Director of Schools (Grants & Aid). He retired in 2021.
2. The allegation is that one Jasmin Khatun was appointed as Assistant Teacher on the basis of recommendation of the Chairman, West Bengal Central School Service Commission (In short 'WBCSSC'). The recommendation was made on November 5, 2019. The President of the West Bengal Board of Secondary Education (in short 'WBBSE') issued

appointment letter on November 8, 2019. Thereafter, Jasmin Khatun joined Bhatra Durga Vidyaytan High School on November 14, 2019, as Sanskrit teacher for classes IX and X. On November 22, 2019, the Secretary of the said School accorded approval for appointment of Jasmine Khatun as Assistant Teacher in Sanskrit. The District Inspector of Schools approved her appointment subsequently. During investigation it was found that recommendation and appointment of Jasmin khatun was beyond the relevant Recruitment Rules. Further, Sanskrit was not a subject taught in Class IX and Class X in the said school.

3. It has been alleged by one Goutam Chandra Mal, the then District Inspector of schools (CSW-2) that the petitioner used to part presence on him by writing letters for approving the appointment of Jasmin Khatun. The petitioner was arrested on February 27, 2024. Charge sheet dated April 14, 2024, under Sections 406 /409/417/420/120B of the IPC was submitted against 6 accused persons including the said Jasmin Khatun, her husband Sk. Sirajuddin and the petitioner. Sk. Sirajuddin was the Chairman of the West Bengal Regional School Service Commission, Northern and Western region at the relevant point of time.

4. The petitioner says that he had no authority to approve the appointment of Jasmin Khatun. He merely communicated to the District Inspector of Schools the decision of higher authorities. He has been wrongly implicated. Investigation is complete. Charge-sheet has been submitted. His continued custodial detention is completely unnecessary.

5. The State strongly opposes the petitioner's prayer for bail. The State says that the petitioner was in cahoots with Jasmin Khatun and her

husband Sk. Sirajuddin. It was on the insistence of the petitioner that Jasmin Khatun's appointment was approved by the concerned District Inspector of schools. This was a part of the huge School Service Commission scam.

6. We have given our anxious consideration to the rival contentions of the parties. By our orders dated September 27, 2024, we have enlarged the said Jasmin Khatun and Sk. Sirajuddin on bail. In those orders we have observed that bail is still the rule and jail is the exception. A citizen is not to be lightly deprived of his/her personal liberty. The general grounds for refusing bail are the nature and gravity of the offence alleged read with the possibility of the accused person absconding if enlarged on bail and also the possibility of the accused person tampering with evidence or influencing witnesses. Bail must not be withheld by way of punishing an accused person who is yet to be convicted upon the prosecution establishing its case beyond reasonable doubt. The law of this country has always been to the effect that one is presumed to be innocent until he is proved to be guilty to the satisfaction of the Court.

7. In the present case, we prima facie find that there may be some material against the petitioner. There are letters written by the petitioner to the concerned DI of schools requesting for approval of the appointment of Jasmin Khatun. However, the petitioner says that he merely conveyed to the DI of schools, the decisions of higher authorities.

8. We further see that in view of the sections of the Indian Penal Code that have been invoked against the petitioner, the evidence is almost wholly documentary in nature. Investigation is complete. Therefore, the prosecution

should be having in its custody the necessary documentary evidence. It is nobody's case that the petitioner is such an influential person that he will tamper with the evidence or influence witnesses, if he is enlarged on bail. We also do not find any real possibility of the petitioner, a 65 year old person, fleeing if he is enlarged on bail. In any event, any such apprehension of the State can be taken care of by imposing stringent conditions for grant of bail. We do not see that any useful purpose will be served by detaining the petitioner in judicial custody any further. The trial has not begun. The petitioner is in custody for more than 7 months. There is no possibility of an early conclusion of the trial.

9. We also see that the Investigating Officer applied before the competent authority for sanction to prosecute the petitioner. Such sanction has not yet been granted.

10. On an overall consideration of the aforesaid factors we are of the view that further custodial detention of the petitioner is not necessary.

11. Accordingly, we direct that the petitioner, namely, Alok Kumar Sarkar, shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Chief Judicial Magistrate, Bankura. The petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not leave the district of Bankura, until further orders, except with the leave of the learned Trial Court and shall meet the Inspector-in-Charge/Officer-in-Charge of the jurisdictional police station once in every week, until further orders.

12. In the event the petitioner fails to comply with any of the conditions stipulated above, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

13. The application for bail being CRM (DB) 2236 of 2024 is, thus, allowed.

14. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

15. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(ARIJIT BANERJEE, J.)

I agree.

(APURBA SINHA RAY, J.)