

06.09.2024

Court No.29

Item No.07

Allowed

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CRM (A) 2979 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Criminal Procedure Code corresponding to 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Baruipur Police Station Case No. 1230 of 2024 dated 01.08.2024 corresponding to G.R Case No. 5546 of 2024 under Sections 409/420 of the Indian Penal Code.

In Re: **Rajendra Datta**

Mr. Sabyasachi Chatterjee

Mr. Debabrata Mondal

Sk. Kiran

Mr. Dinesh Chandra Mondal

Mr. Bomrul Karim

Mr. Mir Anwar

For the Petitioner

Mr. Saibal Bapuli, Ld. APP

Ms. Rajashree Tah

For the State

1. Learned counsel for the petitioner submits that malicious proceeding has been initiated against the petitioner by filing multiple FIRs arising out of the same events.
2. Mr. Sabyasachi Chatterjee, learned counsel for the petitioner, submits that in view of the judgment of the Hon'ble Supreme Court in the case of T.T Antony, reported in (2001)6 SCC 181 there can be no second FIR and no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or same occurrence giving rise to one or more cognizable offence. Mr. Chatterjee has referred to paragraphs 18 and 19 of the said decision. It is submitted that the petitioner was initially arrested in respect of self-same incident on false charges and the coordinate bench being satisfied granted bail to the petitioner on certain

conditions when the petitioner was posted at Treasury-II and came to the office at 12.00 noon after transaction had taken place. It is submitted that on the self-same allegation a further FIR has been registered against the petitioner with false charges.

3. Mr. Banerjee has also drawn our attention to the Memo of distribution of works of Baruipur Head Office, General Branch to show that the petitioner is the custodian of old records relating to the share of both the treasurers. The duties entrusted to the Treasurer (Cash)-I mentioned in paragraph 1 to 11 shall be performed by the Treasurer (Cash)-II during off period of Treasurer (Cash)-I that is from 12.00 Hrs. – 16.00 Hrs. It is further submitted that the petitioner was not found to be present before 12.00 Hrs. and as such the prayer for anticipatory bail of the petitioner is considered favourably.
4. Learned counsel for the State in opposing the prayer for anticipatory bail has referred to the statements of the few retired officials of Baruipur Post Office and submits that the petitioner is one of the culprits who has misappropriated huge fund. However, on enquiry it is submitted that Pradip Marik, Treasurer-I was arrested and subsequently granted bail.
5. Considering the materials available in the case diary, the nature and extent of complicity of the petitioner in the commission of the alleged offence and having regard to the nature of duties and responsibilities appearing from the Memo of distribution of works, which, prima facie, shows that the petitioner was not entrusted with the duty of Treasurer (Cash)-I prior to 12.00 noon and also having regard to the fact that Treasurer (Cash)-I was enlarged on bail and the present petitioner was also enlarged on bail in another FIR case proceeding by a coordinate bench on 23rd August,

2022 on the ground that he came to office at 12.00 noon after the transaction had taken place, we are of the view that custodial interrogation of the petitioner is not necessary.

6. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Rajendra Datta** shall be released on bail upon furnishing a bond of Rs.20,000/-, with two sureties of like amount each, one of whom must be local, subject to the satisfaction of the Arresting Officer and also to comply with the conditions as laid down in Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023. The petitioner shall meet the I.O once in a week till the submission of the final report and on further condition that the petitioner shall appear before the **learned Additional Chief Judicial Magistrate, Baruipur, South 24 Parganas**, within two weeks from date in connection with **G.R Case No. 5546 of 2024**. In the event of non-compliance of any of the conditions, the anticipatory bail shall stand automatically cancelled without any further reference to this Court.
7. Accordingly, the prayer for anticipatory bail of the petitioner is allowed and the same is accordingly disposed of.
8. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Soumen Sen, J)

(Shampa Dutt (Paul), J)

