

09.09.2024

Court No.29

Item No. 07

Rejected

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CRM (A) 3105 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Bharatpur Police Station Case No. 77 of 2024 dated 19.03.2023 corresponding to G.R Case No. 526 of 2024 under Sections 341/323/325/307/427/34 of the Indian Penal Code.

And

In Re: **Md. Anowarul Hassan @ Ripon Molla**

Petitioner

Mr. Milon Mukherjee

Mr. Jakir Hussain

Mr. Mazhar Hossain Chowdhury

For the Petitioner

Mr. Arindam Sen

Mrs. Shaila Afrin

For the State

Mr. S.S. Roy

Mr. Samrat Ghosh

For the De-facto Complainant

1. Learned counsel for the petitioner submits that due to long standing dispute a false complaint has been lodged against the petitioner. Moreover, complaint is based on hearsay evidence. It is further submitted that the earlier order of rejection of a co-accused person cannot be a ground for refusing the present application on ground of parity if it can be demonstrated that the materials ought to have considered by the Court rejecting the prayer for anticipatory bail of the co-accused were not considered.
2. Learned counsel for the State submits that proclamation and attachment issued against the petitioner on 2nd August, 2024. In view therefore, this application is not maintainable following several decisions of the Hon'ble Supreme Court including a recent decision in the case of **Prem Shankar Prasad Vs. State of Bihar & Anr., reported in (2022)14 SCC 516.**

3. Considering the materials available in the case diary and even if we consider the proclamation would not stand in the way in entertaining the application for anticipatory bail, it is needless to mention that the present petitioner stands on the same footing as that of the co-accused persons, whose prayer for anticipatory bail was rejected by this Bench on 09.7.2024 in CRM (A) 2242 of 2024 (Ayasha Bibi @ Ayesha Begum & Anr. Vs. The State of West Bengal). We do not find any materials not considered earlier while rejecting CRM (A) 2242 of 2024. The circumstances applicable in Ayasha Bibi (supra) are equally applicable to the present petitioner. He was named by the witnesses.
4. Accordingly, the prayer for anticipatory bail of the petitioner is rejected and the same is accordingly disposed of.
5. 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)