

09.09.2024
Court No.29
Item No. 36

Allowed

SM/Aloke

CRM (A) 3166 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with Karimpur Police Station Case No. 161 of 1998 dated 20.06.1998 under Sections 147/148/149/304/34 of the Indian Penal Code, 1973 read with Sections 25/27 of the Arms Act and charge-sheet submitted under Sections 302/34 of the Indian Penal Code, pending before the Court of learned Additional Chief Judicial Magistrate, Tehatta, Nadia.

And

In Re: **Nilkamal Sarkar**

Petitioner

Mr. Soumyajit Das Mahapatra,
Mr. Golam Nure Imrohi
Ms. Madhurai Sinha

For the Petitioner

Ms. Amita Gaur,
Ms. Sujata Das

For the State

1. The petitioner is a BSF personnel presently ranked as Head Constable.
2. The case was registered on 20.06.1998 and charge-sheet has been filed on 22.01.2001 under Section 302/34 of the Indian Penal Code.
3. Surprisingly for almost 22 years no steps have been taken by the Investigating Agency for proclamation of attachment.
4. It was not difficult for the Investigating Officer to ascertain the whereabouts of the petitioner as he was a BSF personnel.
5. Learned Advocate for the petitioner submits that a warrant of arrest has been issued.
6. We are also surprising to note that no speedy trial was ordered as the present petitioner was absconding.

7. 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 fact that charge-sheet has already been filed and the petitioner is presently posted at Digberia, we feel that the custodial interrogation of the petitioner is not necessary.
8. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Nilkamal Sarkar** 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 Additional Chief Judicial Magistrate, Tehatta, Nadia 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 Bharatiya Nagarik Suraksha Sanhita and on further condition that the petitioner shall appear before the jurisdictional Court in course of this week and on every date fixed for appearance of the accused and in default the Jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.
9. In the event any charge is framed against the petitioner, we would request the learned Additional District and Sessions Judge, Tehatta, Nadia to expedite the trial as the charge-sheet was filed in 2011 in the case which was registered on 20.06.1998. There has been no progress in the trial in respect of the other accused.

10. This order shall be immediately communicated to the learned Additional District and Sessions Judge, Tehatta, Nadia with a copy to the learned District and Sessions Judge, Tehatta, Nadia, for information and compliance.
11. Accordingly, the prayer for anticipatory bail of the petitioner is allowed and the same is accordingly disposed of.
12. 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.)