

18.01.2024
Item No. 34
Ct. No. 29
SD

C.R.M.(A) 4278 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Raghunathganj** Police Station Case No. **731/2019** dated **24.11.2019** under Sections **406/420/120B/34** of the Indian Penal Code and Section **11(i)(a)(h)(k)** of Prevention of Cruelty to Animals Act, 1960 adding Sections **467/468/469/471** of the Indian Penal Code.

And

In the matter of : Jahangir Alam @ Alam

..... petitioner

Mr. Milon Mukherjee, Sr. Advocate

Mr. Usof Ali Dewan,

Mr. Asif Dewan

....for the petitioner

Mr. Rudradipta Nandy, Ld. A.P.P.

Mr. Subrato Roy

....for the State

The application for anticipatory bail is taken up for consideration subsequent to the order dated January 3, 2024.

On January 3, 2024, the application was adjourned on the prayer made on behalf of the parties.

There subsist an order dated October 16, 2023 passed by the coordinate Bench granting interim anticipatory bail to the petitioner.

It is submitted at the bar that, such order was passed by the coordinate Bench without consulting the materials in the Case Diary and in view of ensuing Puja Vacation.

Learned Senior Advocate appearing for the petitioner submits that, there is public interest litigation pending over the subject matter. Initially, State registered a police case of 2019 and submitted a charge-sheet with regard thereto naming two persons as accused. Both the accused were granted bail by the

jurisdictional Court. Thereafter, the State purported to apply for reinvestigation which was granted. State purported to submit a second charge-sheet where the petitioner was named. He submits that, Central Bureau of Investigation (C.B.I.) is also investigating on the selfsame subject-matter. He refers to the orders passed by the Division Bench hearing the public interest litigation. He refers the order September 27, 2022 passed in WPA(P) 493 of 2022 and the orders dated November 14, 2022, January 10, 2023, February 7, 2023 and February 13, 2023 passed therein.

Learned advocate appearing for the State submits that, the public interest litigation does not prevent the State from concluding the investigation of proceeding with the police case. He submits that, the petitioner before us is involved in the cattle smuggling involving of international country.

State became aware of the involvement of the petitioner from an affidavit submitted by the Enforcement Directorate in a proceeding before Hon'ble High Court at Delhi. Investigating is in line with such affidavit submitted by the E.D. State became aware of the involvement of the petitioner before us in the cattle trade and therefore proceeded to file the charge-sheet against the petitioner. He submits that, the petitioner is involved in the offences alleged.

Learned Senior Advocate appearing for the petitioner submits that, the petitioner is not aware of any affidavit being filed by the Enforcement Directorate before Delhi High Court. Petitioner is falsely implicated.

He submits that, the petitioner was called for investigation thrice after the order dated October 16, 2023 and that the petitioner cooperated with such investigations.

Learned Senior Advocate appearing for the petitioner draws the attention of the Court to the affidavits submitted before the Delhi High Court. He submits that, one Jahangir Alam @ Mantu with a different name of his father is involved. Petitioner before us is Jahangir Alam @ Alam, son of Habibur Rahaman. Criminal Investigation Department (CID) of the West Bengal as well as the Enforcement Directorate as speaking of Jahangir Alam @ Mantu and not Jahangir Alam @ Alam.

We perused the materials in the Case Diary, we also perused the documents relied upon by the respective parties.

There is a public interest litigation being WPA(P) 493 of 2022 pending. In such public interest litigation, orders dated September 27, 2022, November 14, 2022, January 10, 2023, February 7, 2023 and February 13, 2023 were passed.

The order dated September 27, 2022 noted the subject-matter of the public interest litigation. Such order recorded that till the respective stand of the parties came on record in the form of an affidavit it would not be appropriate to prevent the State investigating agency to enter into the field to which the central investigating agency is already investigating. Therefore, the Division Bench directed the State investigating agency on the plea of investigating the offences relating R.C. Case No.19 of 2020, not to enter into the subject-matter and connected field of investigating being conducted by the C.B.I in F.I.R. being RC

0102020A0019 and to ensure unhampered investigating by C.B.I.

The subsequent orders dated November 14, 2022, January 10, 2023, February 7, 2023 and February 13, 2023 are orders recording filing of affidavits.

Therefore, as on date, there subsists an order dated September 27, 2022.

The present police case relates to Raghunathganj Police Case No.731/19 dated November 24, 2019. There, the first charge-sheet was submitted on February 13, 2020.

Police applied for further investigating in such police case which allowed on July 12, 2022. Thereafter, police applied for adding various sections of the Indian Penal Code, 1860, which was allowed on September 15, 2022. It is thereafter that the public interest litigation was filed in the High Court.

Thereafter, another litigation filed before the Delhi High Court being WP(Crl) No.2306 of 2021 (Biswajit Malakar vs. Enforcement Directorate and others). In such writ petition, the Enforcement Directorate took a stand that, the petitioner is a part of group of legal entity involved in money laundering in respect of cattle smuggling. The amount involved are substantial.

We gave our anxious consideration to the span of four years in which, the petitioner was not taken in custody. We also took into consideration the fact that, police filed charge-sheet and that, the petitioner attended the investigating officer on three occasions subsequent to the order dated October 16, 2023.

The allegations as against the petitioner are serious in nature. At least two investigating agencies found the petitioner to be involved in the cattle smuggling case. Enforcement Directorate named the petitioner as being involved in the money laundering relating to cattle smuggling.

The materials in the case diary suggest that the petitioner is one of the principal person associated with the J.H.M. Group of companies and that such Group of Companies are involved in cattle smuggling.

In view of the overwhelming materials in the case diary implicating the petitioner in cattle smuggling through a legal entity, we are unable to grant anticipatory bail to the petitioner or to confirm the interim order dated October 16, 2023.

In such circumstances, we are unable to grant anticipatory bail to the petitioner and the prayer of anticipatory bail is rejected.

The application being **CRM (A) 4278 of 2023** is dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)