

05.01.2024

Sl.22

Court No.29

(AD)

(Allowed)

C.R.M. (A) 4582 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Girish Park** Police Station Case No. **101 of 2021** dated **10.06.2021** under Sections **409/467/468/471** of the Indian Penal Code, 1860 (corresponding to G.R. Case No.637 of 2021).

And

In the matter of: **Pradip Kumar Ray Chaudhuri**

....petitioner.

Mr. Phiroz Edulji

Ms. Juin Dutta Chakraborty

...for the petitioner.

Mr. Madhuysudan Sur, Ld. APP

Mr. Arabinda Manna

...for the State.

The application for anticipatory bail is taken up for consideration subsequent to the order dated October 16, 2023.

By such order, the petitioner was enlarged on interim anticipatory bail by the Coordinate Bench.

It is submitted at the bar that such prayer for interim anticipatory bail was granted without considering the materials in the case diary and just prior to the ensuing puja vacation.

We perused the materials in the case diary.

Learned Advocate appearing for the petitioner submits that the prayer for anticipatory bail is being renewed due to change in circumstances. He submits that a departmental proceedings was initiated as against the petitioner in respect of the selfsame allegation as that of the police complaint. Enquiry report exonerated the petitioner from the criminal liability. The petitioner was, however, found to be acting in violation of service regulations. The disciplinary authority imposed a punishment which was appealed against. The punishment imposed was also waived on

appeal. Therefore, he submits that custodial interrogation is not required.

Learned Advocate appearing for the State submits that, initially, the prayer for anticipatory bail was rejected. Thereafter, the petitioner approached the jurisdictional Court with a prayer for anticipatory bail which was also rejected. He refers the contents of both the orders. He submits that, the opinion of the handwriting expert with regard to the questioned documents was not considered in the enquiry proceedings.

We considered the materials in the case diary and the materials placed on record.

Apparently, the criminal complaint and the departmental proceedings are similar in nature. Defalcation of funds in both the proceedings is involved apart from the petitioner being alleged to be acting in derogation of service regulation, in the departmental proceedings. In the departmental proceedings an enquiry report was submitted which exonerated the petitioner from all criminal liabilities. The enquiry report, however, found the petitioner to be acting in violation of the service regulations. The disciplinary authority accepted the enquiry report and imposed punishment as far as violation of the service regulations are concerned. On appeal, such imposition of the disciplinary authority was set aside.

All these occurred subsequent to the earlier order of rejection of anticipatory bail by the High Court dated September 6, 2022.

Police filed charge sheet.

In such circumstances, we are of the view that, there is a material change in circumstances subsequent to the earlier order of rejection dated September 6, 2022 allowing the petitioner to renew

the prayer for grant of anticipatory bail. In view of the narration of events as noted above, we do not feel need for custodial interrogation of the petitioner. Therefore, we confirm the interim order dated October 16, 2023.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a Bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each to the satisfaction of the Arresting Officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner shall appear on every date before the jurisdictional Court on and from the 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.

The prayer for anticipatory bail of the petitioner is allowed.

C.R.M. (A) 4582 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)