

CRM (A) 3788 of 2024

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 Act, 2023 in connection with Eco Park Police Station Case No. 238 of 2023 dated 06.10.2023 under Sections 498A/34 of the Indian Penal Code.

In the matter of : **Prakash Chandra Bajpai & Ors.**
..... petitioners

Mr. Sankar Nath Mukherjee
Mr. Sanjay Kumar Shaw
Ms. Lipika Das

.....For the petitioners

Mr. Debasish Roy, Ld. PP
Mr. Nirupam Dhali

.....For the State

This is an application for anticipatory bail.

The third petitioner is the husband of the *de facto* complainant. The first petitioner is the father-in-law and the second petitioner is the mother-in-law of the *de facto* complainant. The fourth petitioner is the friend of the third petitioner.

The learned advocate appearing for the petitioners submits that challenging the legality of the notices issued under Section 41A of the Criminal Procedure Code in connection with Eco Park Police Station Case No. 238 of 2023 dated 6th October, 2023 under Sections 498A/34 of the Indian Penal Code, a criminal revision application being CRR 4431 of 2023 was filed.

The learned advocate appearing for the petitioners further submits that such notices were issued in violation of the

directions passed by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar & Anr.** reported in **2014 (8) SCC 273**.

The learned advocate appearing for the petitioner also submits that said criminal revision application is pending. A contempt application being CPAN 1646 of 2024 is also pending before a coordinate Bench.

The petitioners have prayed for anticipatory bail as warrant of arrest has been issued against the petitioners.

The learned Public Prosecutor submits that since the petitioners have not complied with the notices under Section 41A of the Code of Criminal Procedure, the warrant of arrest has been issued.

The learned advocate appearing for the petitioners, on instruction, submits that the petitioners are now willing to comply with the notice dated August 5, 2024 issued under Section 41A of the Criminal Procedure Code, if some time is given to the petitioners to comply with the said notice.

The learned Public Prosecutor, on instruction, submits that in case the petitioners comply with the notice issued under Section 41A of the Criminal Procedure Code dated August 5, 2024 on or before 8th November, 2024, the Investigating Agency shall not take any coercive steps against the petitioners till that date.

The learned advocate appearing for the petitioners submits that the petitioner nos. 2 and 4 may be exempted from personally appearing before the concerned Investigating

Officer and they shall be appearing virtually through a link which will be provided by the petitioner nos. 1 and 3 at the time of their physical appearance before the concerned Investigating Officer.

In the event the petitioner nos. 1 and 3 appear physically before the concerned Investigating Officer on or before November 8, 2024, no coercive steps shall be taken against them till that date.

The petitioner nos. 2 and 4 shall also appear virtually on the date when the petitioner nos. 1 and 3 will appear physically before the concerned Investigating Officer within the time mentioned hereinbefore.

With the aforesaid observations and directions, the application for anticipatory bail stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Md. Shabbar Rashidi, J.)

(Hiranmay Bhattacharyya, J.)