

14.11.2024
Sl. No.16
akd
[ALLOWED]

C. R. M. (A) 3827 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 04.11.2024 in connection with RC No.04(A)/2021 arising out of RC0102021A0004 dated 28.09.2021 in connection with Alipurduar Police Station Case No.187 of 2013 dated 30.04.2013 under Sections 406/409/420/34 of the Indian Penal Code.

And

In Re: ***Nikhilesh Dutta***

... .. Petitioner

Mr. Arindam Jana
Mr. Somak Sankar Lahiri
Mr. Prithish Bandyopadhyay
Mr. Partha Pratim Sinha

... .. for the petitioner

Mr. Amajit De

... .. for the CBI

1. It is submitted on behalf of the petitioner that he is aged around 69 years. His earlier anticipatory bail applications were not disposed of on merits. First application was rejected due to non-representation of the petitioner and the second application was dismissed as not pressed as the matter pertained to the principal Bench. It is further submitted petitioner, though a Director had acted on the direction of the principal accused viz. Sunil Kumar Sarkar and the sums withdrawn by him were paid as salaries to employees. During investigation, petitioner had not been arrested and summons had been issued by the jurisdictional court. Accordingly, he prays for anticipatory bail.

2. Learned Advocate for the CBI submits report. Report shows petitioner had acted on the direction of the principal accused viz. Sunil Kumar Sarkar who has been enlarged on bail.

3. We have considered the materials on record. Petitioner is one of the Directors of '*M/s. Unifying Earth Retail Pvt. Ltd.*', a company which

is alleged to have indulged in money circulation business. However, his role in the affairs of the company is minimal. It is contended petitioner had acted on the instruction of the principal accused i.e. Sunil Kumar Sarkar and had withdrawn a mere sum of Rs.3,15,000/- to pay salaries. He was not arrested during investigation. In light of the law declared in *Satender Kumar Antil vs. Central Bureau of Investigation & Anr.*¹, jurisdictional court issued summons upon him. His earlier prayers for anticipatory bail had not been turned down on merits.

4. Under such circumstances, we are inclined to grant anticipatory bail to the petitioner.

5. Accordingly, we direct in the event of arrest, the accused/petitioner, namely **Nikhilesh Dutta**, 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 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition that the petitioner shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

6. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ (2002) 10 SCC 51