

13.02.2025
Sl. No.18
akd
[ALLOWED]

C. R. M. (A) 295 of 2025

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 22.01.2025 in connection with Chittaranjan Police Station Case No.32 of 2024 dated 23.12.2024 under Sections 69/109/61/125(b) of the Bharatiya Nyaya Sanhita, 2023. (G.R. Case No.3586 of 2024)

And

In Re: ***Atish Kumar Dash @ Debasish Das***

... .. Petitioner

Mr. Subrata Bhattacharyya
Mr. Indranuj Datta
Ms. Shipra Santra

... .. for the petitioner

Mr. Anowar Hossain
Mrs. Shaila Afrin

... .. for the State

1. It is submitted on behalf of the petitioner that he is an employee of CISF. There was a romantic association between himself and the victim. On the fateful day, victim was riding on his motorcycle. Accidentally her *dupatta* got entangled with the wheel of the motorcycle and her hand was dragged into the wheel resulting in amputation. Accordingly, he prays for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail and submits petitioner had cohabited with the victim on a false promise of marriage. On the day of occurrence, his friend viz. Subham Mallik pulled the *dupatta* which got entangled with the wheel of the petitioner's motorcycle and petitioner accelerated his motorcycle resulting in amputation of her hand.
3. Victim was notified. We are informed victim is under medical treatment and did not attend hearing.

4. We have considered the materials on record. Allegations disclose an unfortunate incident where the victim has lost her hand. But for the forensic purpose of determining whether petitioner's prayer for pre-arrest bail ought to be allowed, we are required to examine to what extent petitioner is culpable for this unfortunate event.

5. Accordingly, we have undertaken to test his culpability on the touchstone of twin accusations under Sections 69 and 109 of the Bharatiya Nyaya Sanhita, 2023.

6. Firstly in respect of Section 69 of the Bharatiya Nyaya Sanhita, 2023, prosecution requires to demonstrate petitioner had sexual intercourse with the victim on the false promise of marriage.

7. We have examined the statement of the victim. She admits the parties had fallen in love and petitioner cohabited with her. Thereafter, upon getting employment, petitioner was unwilling to marry. Whether unwillingness to marry would amount to refusal must be tested from the anvil of the victim's conduct of voluntarily accompanying the petitioner on the date of the incident on his motorcycle. This demonstrates the relationship between the parties was still continuing on the day when the victim suffered injury.

8. Secondly whether the injury suffered by the victim is accidental we note the incident occurred while the victim was riding pillion on the petitioner's motorcycle. Petitioner's friend viz. Subham Mallik was on another motorcycle and it is alleged he had pulled her *dupatta*. On the other hand, petitioner contends the *dupatta* got accidentally entangled in the wheel of the motorcycle and when the victim tried to extricate it, her hand got injured. Subham who is alleged to be a conspirator immediately took the victim to hospital.

9. In this backdrop, petitioner's version the injury was accidental appears to be a credible one. No doubt injury is very grave and has

resulted in amputation of hand. But factual matrix of the case does not persuade us to come to a prima facie conclusion it was the petitioner who had caused the injury.

10. Under such circumstances, we are of the opinion custodial interrogation of the petitioner is not necessary and he may be granted anticipatory bail however, subject to conditions.

11. Accordingly, we direct in the event of arrest, the accused/petitioner, namely, ***Atish Kumar Dash @ Debasish Das***, 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 meet the Investigating Officer once in a week until further orders. He shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)