

03.04.2025
Court No.28
Item No.8
tbsr
Allowed

CRM (A) 1002 of 2025

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with **Tamluk** RPF Post Case No.**04 of 2024** dated **17.10.2024** under Section **3(a)** Railway Property (Unlawful Possession) Act, 2012 giving rise to UR 07/2024.

And

In the matter of: **Pulakesh Mandal**

....Petitioner.

Mr. Arnab Chatterjee

Mr. Abhinaba Mukherjee

...for the petitioner.

Mr. Himangsu Dey

Mr. Debapriya Samanta

.....for Post Commander RPF South Eastern Railway

Report filed on behalf of the Railway authorities is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was not named in the FIR nor was he otherwise identified by any of the raiding party members. The only material available against the petitioner is an alleged statement of a co-accused. Moreover, there is not material to show that the coal apprehended was stolen.

Learned senior counsel representing the railways denies the allegations, relies on the documents obtained during enquiry and submits as follows. The co-accused have clearly taken the petitioner's name as a perpetrator of crime. The CDR and SDR analysis of a phone calls between them clearly shows that they were in touch in or about the place and time when the incident took place. However, as of now there is no statement of any witness to the effect that the coal

belonged to them. The other accused surrendered before the learned Court and were granted bail.

It appears that Section 3 of the Railway Property (Unlawful Possession Act, 1966 ordinarily provides for a punishment up to 5 years for the first offence and in the alternative fine can also be imposed.

Considering the nature of offence alleged and materials available in the case diary and the fact that the co-accused were granted bail upon surrender, I do not think custodial interrogation of the petitioner is required in this case.

Accordingly, I direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023 and on further conditions that the petitioner shall cooperate with the investigation.

The application for anticipatory bail is, thus, allowed.

(Jay Sengupta, J.)