

AD 15
April 3, 2025
Ct. 28

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

SG

CRM(A) 1049 of 2025

Allowed

An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Harishchandrapur P.S. Case No.707 of 2023 dated 15.07.2023 under Sections 379/411/413/414/120B of the Indian Penal Code and Section 11(a) of the Prevention of Cruelty to Animals Act.

And

In the matter of: *Mahesh Yadav*

... petitioner

Mr. Kallol Mondal, Sr. Adv.
Mr. Krishan Ray
Mr. Souvik Das
Mr. Anamitra Banerjee
Mr. Mobaraktullah
Mr. Akbar Laskar

... for the petitioner.

Ms. Subhasree Patel
Ms. Suparna Chatterjee

... for the State

Learned senior counsel representing the petitioner submits as follows. The petitioner is no way connected with the alleged offence. He did not even know about the registration of such FIR that purportedly contained his name. After submission of charge-sheet in the year 2024, he came to know about the pendency of the proceedings. A similarly circumstanced individual was granted anticipatory bail by a Division Bench of this Court on 25.09.2023 in CRM(A) 3950 of 2023. After filing of this anticipatory bail application on 21.03.2025, an attempt has been made to issue proclamation on 01.04.2025. But, the process has not

been completed. Reliance is placed on a decision of the Hon'ble Apex Court passed on 12.11.2024 in Criminal Appeal No.4564 of 2024 (*Asha Dubey vs. the State of Madhya Pradesh*).

Learned counsel for the State opposes the prayer for anticipatory bail, relies on the case diary and submits as follows. Although the other co-accused who was granted anticipatory bail, approached this Court in 2023, the present accused has approached this Court in 2025. Earlier, the Hon'ble Apex Court had held that an anticipatory bail application would not lie if an accused is declared a proclaimed offender.

It appears that a notice was issued in terms of Section 82(1) of the Code of 1973 only after the petitioner had filed this application for anticipatory bail. However, the process of declaring the petitioner as a proclaimed offender in terms of Section 4 of Section 82 has not been completed yet.

Moreover, in *Asha Dubey* (supra) the Hon'bel Apex Court held as follows:

“Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.”

Considering the nature of allegations and the materials available against the petitioner and the earlier grant of anticipatory bail to a similarly circumstanced accused by a Division Bench of this Court, this Court is inclined to grant anticipatory bail to the petitioner.

In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (rupees ten thousand) each 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 the further condition that the petitioner shall not threaten or intimidate witnesses.

The application for anticipatory bail is, thus, allowed.

(Jay Sengupta, J.)

