

28.04.2025
Court No.28
Item No.19
ssi

CRM (A) 1184 of 2025

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Suraksha Nagarik Sanhita in connection with Howrah PS Case No. **105** dated **13.03.2025** under Sections **336(2)/337/336(3)/340/318(4) of the** of the BNS 2023.

And

In the matter of: **Sk. Sirajul Islam**

....Applicant/Petitioner.

Mr. Milon Mukherjee
Mr. Md. A. Ali
Mr. Biswaroop Bhattacharyya
Mr. Anindya Bose
Mr. Golam Mohiuddin
Mr. Mridul Biswas

...for the petitioner.

Mr. Debasish Roy, Ld. PP
Mr. Rudradipta Nandy, APP
Mr. Bidyut Kumar Ray
Mr. Kunal Ganguly

..for the State

Learned senior counsel representing the petitioner submits as follows. The first prong of allegations made against the petitioner is that he had suppressed the fact that the second candidate in the list was willing to take the teachers' job in question. Suppressing it, he made a prayer before this Court and obtained the job. The entire incident dates back to 1997. Soon thereafter, the second enlisted candidate approached this Court and the fraud of the petitioner was allegedly revealed. Thereafter, the Single Judge terminated his service and asked him to pay a sum of Rs. 10,000/- or else, criminal proceeding would be started. In effect, this part of the order was affirmed by the Division Bench. In other words, the petitioner's alleged misrepresentation and/or consequent wrongdoing was purged

by payment of such sum of Rs. 10,000/-. This Court also directed that in the event the second enlisted candidate was not interested to take the job, the vacancy should be reported to the School Service Commission. It is further alleged that the same was not done. Even before the second enlisted candidate could intimate his refusal to take the job, the petitioner was purportedly appointed as a teacher by the Managing Committee of the school. The petitioner is not responsible for his own appointment. If at all there is anyone responsible, it would be the School Authorities as also the Authorities who ratified such appointment at a later date. All these things happened in the year 2001. No one bothered to detect or highlight this issue. It was only in 2025 that the alleged irregularity was detected. The Single Judge, before whom, a writ petition is pending never directed registration of an FIR. Yet, an FIR was registered. The Division Bench has now set the parameters for investigation of the same. Nonetheless, the matter has remained a service dispute, at the worst. Even if a criminal case is started, the petitioner need not be arrested in respect of the same after passage of so many years.

Learned senior counsel representing the State relies on a list of dates and submits as follows. It cannot be said that the fraud committed by the petitioner upon this Court was purged simply by paying a sum of Rs. 10000/-. After that and even before the second enlisted candidate could intimate his unwillingness to join the post on 28.03.2021, the Managing Committee of the School took a decision to appoint the petitioner as a teacher on 22.03.2001. Termination period has also been illegally regularized by the concerned authorities. It has to be found out about who were

responsible for giving such undue benefit to the petitioner. Despite several efforts of the Investigating Agency to apprehend the accused, he is not traceable. Although no notice under Section 35(3) of the BNSS was issued, warrant of arrest has now been issued against the petitioner. At present, a Single Bench is in seisin of the matter in a writ proceeding and the order passed by the Single Bench has been affirmed by the Division Bench.

First, it appears that the incident originated in the year 1997. The alleged initial fraud perpetrated by the petitioner before this Court was taken into consideration by the Single Judge and the Division Bench. Finally, the petitioner was asked to pay Rs. 10,000/- or face criminal prosecution. Whether the fraud or illegality committed by the petitioner is purged by the same or not, it is a fact that the petitioner did pay the sum of Rs.10,000/- after passing of the Court's directions.

The more germane issue that still remains to be explored is as to how the petitioner could be appointed as a teacher even before the second enlisted candidate could inform about his unwillingness to take the job, without following the prevalent norms and procedure and in violation of this Court's direction.

However, it is also pertinent to note that all these happened in the year 2001.

It is also not the case of the State that the petitioner is involved in a large scam that affected numerous others.

If the petitioner has committed a wrong, the criminal case started can be taken into its logical conclusion and he can even be proceeded against departmentally.

However, in view of the facts that all these incidents took place about two decades ago, no one complained about these all this long and it is not even clear to the prosecution till now as to who all might be responsible for giving this particular appointment in alleged violation of Court's directions, I do not think that custodial interrogation of the petitioner is required in this case.

In view thereof, the prayer for anticipatory bail is allowed.

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 meet the Investigating Officer of the case once a week till submission of report in final form, shall not try to influence the witnesses or threaten them, shall cooperate with the investigation and shall appear before the learned trial Court and pray for regular bail within four weeks from this date.

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

(Jay Sengupta, J.)