

06.08.2025
SL.43
Ct.No.32
Sws.M
(Allowed)

CRM (A) 1986 of 2025

In Re:- An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Dhaniakhali** P.S. Case No.150 of 2012 dated **29.12.2012** under Sections **302/201/120B/34** of the Indian Penal Code pending before the learned Chief Judicial Magistrate, Hooghly.

In the matter of: **Sk. Saddam @ Sk. Matiul** Petitioner

Mr. Mayukh Mukherjee

...For the Petitioner.

Mr. Ranabir Roy Chowdhury

Mr. Rajesh Jana

...For the State.

1. Both the learned counsel appearing on behalf of the petitioner as well as State are present.
2. Learned counsel appearing on behalf of the petitioner submitted that the prayer for anticipatory bail has been sought for with regard to the petitioner, who was impleaded in this case after filing of the charge-sheet that too on the strength of statement of the co-accused only.
3. Learned counsel appearing on behalf of the State by opposing the prayer for anticipatory bail has submitted that the petitioner is absconding for more than 12 years and in these circumstances, the petitioner is not entitled to be enlarged on anticipatory bail.
4. In reply, learned counsel appearing on behalf of the petitioner has drawn my attention to several orders passed by the Court, wherefrom it is found that warrant was issued and all subsequent dates were fixed for ' E/R of WA'. Therefore, neither

any non-execution report was submitted by the police nor any order of proclamation was issued.

5. Learned counsel appearing on behalf of the petitioner has relied on a case of *P. Krishna Mohan Reddy vs. The State of Andhra Pradesh*, reported in 2025 SCC OnLine SC 1157 wherein the Hon'ble Apex Court observed in paragraph 53(x), which runs as follows:-

"53.(x) Before the court looks into the police statement of any person under Section 161 of the Cr.P.C. for the purpose of anticipatory or regular bail, the court must first ascertain whether such person is actually a witness or an accused person, or likely to be an accused person in respect of the offence(s) alleged. This is because, there may be situations where a person while giving his statement under Section 161 of the Cr.P.C. may not be an accused, but later arrayed as one. In such a scenario the courts must be mindful of the fact that because the investigation is still ongoing, it is more likely for a person who was originally a witness to happen to be later arrayed as an accused person. If the court was to blindly place reliance on statement of such a person merely because he is not named in the first information report, without first seeing whether such person is likely to be arrayed as an accused or not, it would lead to an absurd situation where the statement of such a person may be relied upon up until such person is arrayed as an accused. We also caution the Courts, where it emerges from the material on record, that such a person is likely to be arrayed as an accused, the courts should refrain from expressing any such opinion so that the investigation is not prejudiced in any manner."

6. Learned counsel appearing on behalf of the petitioner further relied on an order passed by this Bench in the case of *Avishek Singhal vs. State of West Bengal* on 3rd May, 2024 in connection with CRR 123 of 2018 with CRAN 1 of 2018.
7. Perused the case diary.

8. Referring to the ratio of the cases mentioned to above, it is submitted that the prayer for anticipatory bail cannot be rejected only on the ground of statement of co-accused.
9. Considering all the facts and circumstances and also the ratio of *P. Krishna Mohan Reddy (supra)*, I find no further option but to grant anticipatory bail to the petitioner.
10. Accordingly, the petitioner is being enlarged on bail upon furnishing bond of Rs.20,000/- (Rupees Twenty Thousand only) with two surities of Rs.10,000/- each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 482(2) of the BNSS and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.
11. As a sequel, the application being **CRM (A) 1986 of 2025** stands disposed of.
12. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.
13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Bibhas Ranjan De, J.)