

07.08.2025
Sl. No.31
NB

C.R.M. (A) 2467 of 2025

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973 corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with English Bazar PS Case No.971 dated July 18, 2024 under Sections 323/376/379/427/436/448/506/511/34 of the Indian Penal Code.

And

In the matter of: Ashikur Rahaman @ Asikul Rahaman
... petitioner

Mr. Ayan Bhattacharjee Sr.Adv.,
Mr. Shounak Mondal,
Mr. Amjad Ali Biswas,
Mr. Suman Majumder.
...for the petitioners.

Ms. Manisha Sharma,
Mr. Sujoy Sarkar.
...for the State.

Mr. Md. Wasim Akram
...for the de facto complainant.

Learned senior counsel representing the petitioner submits as follows. This is a second application for anticipatory bail on the ground of change in circumstance. An MOU dated 07.03.2025 was executed subsequently wherein the de facto complainant and her husband agreed to withdraw the criminal case upon mutual understanding regarding the surrender of property rights. Such move exposed the malafide of the criminal proceeding. Moreover, the husband of the de facto complainant initiated English Bazar PS Case No.1407 of 2024 wherein the petitioner stood discharged by charge sheet dated 13.12.2024. The prosecution arose from a long standing dispute over ancestral property between family members. The application before the Magistrate was filed without an affidavit.

Learned counsel appearing on behalf of the de facto complainant submits that the MOU was conjured up under duress.

Learned counsel appearing on behalf of the State submits that there is no change in circumstance for entertaining a second application for anticipatory bail.

The execution of the MOU in question is now being disputed by the de facto complainant. Besides, one wonders how such MOU or a compromise in a case of alleged sexual assault can hold any weight in a Court of Law.

Subsequent discharge of an accused in another case started between the private parties is also not a change in circumstance, so far as the present case is concerned.

The point regarding affidavit was available to be argued before the Division Bench.

Therefore, it appears that there is no material change in circumstance so as to entertain a second application for anticipatory bail.

Accordingly, the second application for anticipatory bail without there being a change in circumstance is dismissed, however, without any further order as to costs.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)