

21.08.2025
Court No.28
Item No. 325,
326

CRM (A) 2487 of 2025

In Re: - An application for anticipatory bail under Section 482 of the Bharatiya Suraksha Nagarik Sanhita, 2023.

And

In the matter of: **Paresh Paul & others.**

....Applicants/Petitioners.

Mr. Kalyan Bandopadhyay, Sr. Adv.,
Mr. Arka Kumar Nag,
Mr. Indradeep Das,
Ms. Eshita Dutta,
Ms. Sanjana Saha,

...for the petitioners

Mr. Dhiraj Trivedi, Sr. Adv.,
Mr. Amajit De

.....for the CBI

Mr. Moyukh Mukherjee,
Ms. Sagnika Banerjee,
Ms. Aishwarya Bazaz

..... for the de facto complainant

With

CRM (A) 2523 of 2025

And

In the matter of : **Rajdip Singh.**

....Applicants/Petitioners.

Mr. Imtiaz Ahmed,
Mr. Ghazala Firdaus,
Mr. Sk. Saidullah,
Mr. Mithun Mondal,
Mr. Mohammed Arsalan,
Ms. Zannat Haq

..... for the petitioner

Mr. Amajit De

....for the CBI

Mr. Moyukh Mukherjee,
Ms. Sagnika Banerjee,

..... for the victim

1. The two applications for anticipatory bail being 2487 of 2025 and 2523 of 2025 pertain to the same Sessions Case No. 06 of 2025 presently pending before the Court of learned Judge, Bench – I, City Sessions Court, Calcutta, arising out of CBI Case No. RC0562021S0008 dated 01.09.2021, which, in turn, arose from Narkeldanga Police Station Case No. 124/2021 under Sections 302/341/323/506/142/143/147/148/149/449/452/201/395/34/109/120B of the Indian Penal Code. As such, the applications were heard together, one after the other. The same are being taken up together for passing an order.

2. Learned senior counsel appearing on behalf of the petitioners in CRM (A) 2487 of 2025 has submitted as follows. The petitioner no. 1 is about 79 years old. He is an MLA, belonging to the ruling political party of the State from the Belegghata Constituency. The petitioner no. 2 is aged about 63 years. He is a Counsilar of the Kolkata Municipal Corporation for the Ward No. 56 and the petitioner no. 3 is a 36 years old Counsilar for the Ward No. 36 of the Kolkata Municipal Corporation. The present petitioners are members of the ruling political party of the State. The petitioner no. 1 was suffering from his old age ailments and was under continuous medical supervision. The instant case relates to alleged post poll violence after the Assembly Elections of 2021. It is alleged that on 02.05.2021 in the afternoon, 7 or 8 unknown persons including 3 or 4 women came to the house of the original de facto complainant and asked for the whereabouts of her son, the victim deceased. They alleged that the

victim had occupied many rooms of Railways. Altercations took place and the miscreants started assaulting the informant. The younger son of the complainant was brutally assaulted and the police thereafter came to rescue the victim and admitted him to the hospital. He was succumbed to his injuries. Initially, the Narkeldanga Police Station investigated the case on 08.05.2021. The initial FIR and the subsequent complaint were merged on 31.05.2021. Investigation was transferred to the Homicide Squad. A charge sheet was submitted on 06.08.2021 against the 15 accused persons. Subsequently, a Public Interest Litigation was filed regarding the alleged post poll violence. Vide order dated 19.08.2021, the investigation was transferred to the CBI, which took up the investigation on 25.08.2021 and submitted its first supplementary charge sheet dated 30.09.2021, against 20 accused. During deposition of the PW-1 and long after the institution of the case, the CBI filed another supplementary charge sheet. Several more accused were chargesheeted including the present petitioners. The present petitioners have been arrayed as accused only to fix the ruling political dispensation before the ensuing Assembly Elections of 2026. Incidentally, the first FIR as lodged by the mother was substituted by a merged version. Moreover, over nearly the same materials that were available during filing of the first charge sheet by the CBI, a second supplementary charge sheet has now been filed against the additional accused including the present petitioners. It is germane to mention that two police personnel similarly arraigned as accused subsequently surrendered before the trial Court, but were taken into custody. They were granted bail by this Court by an order dated 05.08.2025. The present petitioners have never tampered with

the evidence or influenced or threatened witnesses. Surprisingly, the other accused were taken into custody despite mere issuance of process. The trial Court had held that there was no requirement of issuing warrant of arrest. In fact, the views of the investigating officer and the Court regarding issuance of process were the same for the present petitioners. The present petitioners were neither named in the FIR nor were made accused by the State police. Although, the materials that the CBI is now harping on for implicating the present petitioners were all available during the submission of the first charge sheet by them in the year 2021, the CBI chose not to cite the present petitioners as accused earlier. Significantly, during the first further investigation and then the second further investigation by the CBI that continued for about four years, no effort whatsoever was made to take the petitioners into custody. Now, all the evidences have purportedly been collected and the second supplementary charge sheet has been submitted. Therefore, no fruitful purpose would be served by taking the petitioners into custody. But, the petitioners are apprehensive because the other co-accused who went to surrender before the learned trial Court were taken into custody. The Hon'ble Apex Court has time and again deprecated the practice of taking custody of accused when they appear pursuant to issuance of summons, especially in cases where they had not been arrested during investigation and had cooperated with the same. On this reliance may be placed on (i) *Siddharth vs. State of Uttar Pradesh and Anr.* (2022) 1 SCC 676, ii) *Aman Preet Singh vs. Central Bureau of Investigation*, (2022) 13 SCC 764, iii) *Tarsem Lal vs. Directorate of Enforcement Jalandhar*, (2024) 7 SCC 61. Although, a prima facie view is to be

taken in a hearing of an application for anticipatory bail and a mini trial is to be avoided, however, the facts need to be briefly analyzed. On facts, an absurd charge of conspiracy of committing murder has been presented. The first piece of evidence is a video footage recorded by the victim himself before his death, where he alleged that the petitioner nos. 1 and 2 and their men were bent upon harassing him, they were damaging his shelter for animals, killing those animals and attacking all. It is not the prosecution case that the present petitioners were at all present at the place of occurrence at the relevant time. The other material relied upon by the CBI is a video clip of a speech given by the petitioner no. 1 in the locality about 12 days before the date of incident declaring that the deceased and his brother were trouble makers and that he would not allow them to stay there. In this context, the only allegation against the petitioner nos. 2 and 3 was that although they were present in the stage when the speech was being delivered, they did not prevent the petitioner no. 1 from delivering such provocative speech. All these materials were available with the CBI at the time of filing of the first supplementary charge sheet in 2021 and yet, they did not consider it necessary to make the present petitioners accused in the case. Mere delivery of a speech, not giving death threats, but threatening that the victim may be evicted from his place, would not amount to any instigation or abetment to murder such person. Political figures do make speeches including on local issues. But, if an unfortunate incident takes place, which has not even a remote connection with the speech, and which is quite distant in point of time, the maker of such speech cannot be hauled up over the commission of such subsequent acts. It was necessary for

the investigating agency was to collect corroborative evidence, which they failed to do or they deliberately did not do. Regarding the speech in question, the allegations made against the petitioner no. 2 and 3 are too far-fetched and prima facie not tenable. On the question of maintainability of such application, a Special Bench of this Court in *Shamim Ahmed and Ors. vs. State and Ors.*, 2003 SCC Online Cal 148 had clearly held that even when a process is issued in a criminal proceeding, an application for anticipatory bail would be maintainable.

3. Learned counsel appearing on behalf of the petitioner in CRM (A) 2523 of 2025 has submitted as follows. The petitioner was not named as an accused either in the first FIR or in the first few statements of the brother of victim/deceased. It was only in statement of the victim's brother recorded much later before the CBI that the petitioner was named. This was an afterthought and was meant only to falsely implicate the petitioner. Moreover, the identification of the petitioner as "Pancha Da's Jamai" is completely false. The petitioner's father-in-law is not known by any such name. It is vehemently denied that the petitioner threatened the brother of the victim/deceased at any point of time.

4. Learned counsel appearing on behalf of the de facto complainant vehemently opposes the application and has submitted as follows. He takes up a question of maintainability and submits that when a summon is issued in a criminal case after submission of charge sheet, even after the offences are non-bailable, there can be no apprehension of arrest by the police. Therefore, an application for anticipatory bail would not lie. On this reliance is placed on a decision of the Hon'ble Delhi High Court in *P.V. Narasimha Rao vs. State CBI*,

1997 (40) DR J (DB). Even in Sandip Kumar Bafna's case reported at (2014) 15 SCC 623, a distinction was made in respect of arrest and custody. He further submits that the assailants belonged to the ruling political party and the present three petitioners, who were their local leaders. A clear case of instigation and conspiracy is made out against the present petitioners. It is an established fact that the said petitioners were aggrieved with the political activism of the deceased and were hell-bent to teach them a lesson. So far as the petitioner Rajdip Singh was concerned, he was one of the associates. He was referred to in the first letter of complaint of the brother. In a subsequent statement, the petitioner was mentioned by name. He was known as "Pancha Da's Jamai". During pendency of the proceeding, some other accused threatened the brother in the petitioner's presence.

5. Learned counsel appearing on behalf of the CBI has strongly opposed the prayer for the anticipatory bail and has submitted as follows. The point of maintainability taken on behalf of the de facto complainant was adopted. The case at hand involves a most gruesome murder that took place as a part of the post poll violence committed by the political dispensation in 2021. The victim deceased was brutally murdered in front of his aged mother and brother. The other victim, the brother was also beaten up in presence of the State police personnel. The mother of the victim was made to sign on blank paper and a softer and somewhat different version was taken as the first FIR. So far as the present petitioners are concerned, their roles are very clear and apparent. First, there is a provocative speech given by the petitioner no. 1 in the presence of the petitioners 2 and 3 on the

stage. He had vented his grudge against the victim deceased and was looking to oust him from that place. The second and more clinching evidence is the other video clips recorded by the victim himself before his death. He has taken the names of the of the petitioner nos. 1 and 2 in the same. It is true that these pieces of evidences were available at the time of filing of the first supplementary charge sheet in 2021. However, further investigation was being carried out and different aspects of the relevant facts were being carefully assessed. As such, the second supplementary charge sheet here could be filed only in 2025. The gravity of the offences, the clinching piece of evidence collected and the influential position of the present petitioners do not warrant that an anticipatory bail be granted to them.

6. The application relates to a gruesome murder committed by some miscreants. This was allegedly a part of the post poll violence that ensued after the Assembly Elections of 2021. Such horrendous crimes are to be dealt with sternly. However, the roles of the each of the accused have to be carefully assessed. An application for anticipatory bail would also have to be decided on its settled principles.

7. In Shamim Ahmed (supra) a Special Bench of this Court held as under –

“.....

So after a careful scrutiny of the different case laws and on perusal of the structure of the Code of Criminal Procedure, we hold and conclude that there is no bar in filing an application under section 438 after the filing of the chargesheet or after the issuance of a process under section 204 of the Code or after the issue of warrant of arrest in a complaint case. We also come to the conclusion that such an application is quite maintainable at post-cognizance stage of a case instituted on police report or complaint after the court issues process like warrant of arrest for

*production of a person of having committed a non-bailable offence. The question is accordingly answered in the affirmative.
.....”*

8. Among other things, the Court held that an application for anticipatory bail would be maintainable if a process is issued. It is not for this Court to look for whether the ratio laid down was beyond the scope of reference in such case. Even, the attempt made on behalf of the de facto complainant to construe that the process would essentially mean the issuance of warrant in a complaint case and not summons is not found sustainable. One has to go by the plain words used and the same would imply that an application for anticipatory bail would indeed be maintainable in a case where a process is issued like the present one where a summons was issued after filing of charge sheet in a police case involving non-bailable offences. This Bench is bound by the ratio laid down by a Special Bench of this Court.

9. That apart, a contrary proposition would lead to anomalous outcomes. It would imply that if a more strict process like a warrant of arrest is issued, an application for anticipatory bail would lie. But, if a less stringent process like a summons is issued, an application for anticipatory bail would not lie and an accused facing such lighter process would be deprived of such an opportunity and would be directly subjected to the exercise of discretion by the Trial Court as regards grant of bail.

10. Then, there is the other concept of apprehension of arrest not being confined to an arrest only by the police. As the word “arrest” has not been defined in the Sanhita or the Code of 1973, an

interpretation may fairly be contemplated so as to include within its ambit, any kind of detention or custody, depriving the liberty of a citizen, especially when tested on the anvil of Article 21 of the Constitution of India. According to Black's Law Dictionary, 6th Edition, "arrest" means, among other things, 'to deprive a person of his liberty by legal authority'; 'taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand.'

11. In *Mahdoo Bava vs. CBI*, reported at 2023 SCC Online SC 299, appeals against rejection of anticipatory bail were opposed by the CBI, inter alia, with a categorical stand that the Court had merely issued summons and not warrant for appearance of the accused. There, the Hon'ble Apex Court held that -

“.....
10. More importantly, the appellants apprehend arrest, not at the behest of the CBI but at the behest of the Trial Court. This is for the reason that in some parts of the country, there seems to be a practice followed by Courts to remand the accused to custody, the moment they appear in response to the summoning order. The correctness of such a practice has to be tested in an appropriate case. Suffice for the present to note that it is not the CBI which is seeking their custody, but the appellants apprehend that they may be remanded to custody by the Trial Court and this is why they seek protection. We must keep this in mind while deciding the fate of these appeals.
.....”

“.....
12. In view of the aforesaid, we are of the considered view that the appellants are entitled to be released on bail, in the event of the Court choosing to remand them to custody, when they appear in response to the summoning order. Therefore, the appeals are allowed and the appellants are directed to be released on bail, in the event of their arrest, subject to such terms and conditions as may be imposed by the

*Special Court, including the condition for the
surrender of the passport, if any.
.....”*

12. In view of the above discussions, this Court finds that the present application for anticipatory bail is quite maintainable.

13. The roles allegedly ascribed to each of the present petitioners also need to be briefly touched upon to find out whether they are entitled to get anticipatory bail, on merits. Such discussions would quite obviously be for the limited purpose of deciding the instant applications.

14. The allegations against the petitioners, Paresh Paul and Swapan Somaddar are mainly two-fold.

15. First, there were video clips recorded by the victim deceased before his death, alleging that the petitioner and others were creating disturbance, damaging things, killing animals and attacking all. It is elementary that once such allegations came to light, it was incumbent upon the investigating agency, at the least, to find out whether there were phone calls made between the petitioners and the assailants immediately before, at the time or after the incident. But, the CBI neither arrested the petitioners nor, as submitted on behalf of the CBI upon inquiry by the Court, collected the CDR and SDR analysis of relevant phone calls.

16. More pertinently, although the above video clips were available to the CBI before submission of its first supplementary charge sheet in 2021, they chose not to treat the petitioners as accused or file charge sheet against them.

17. The other material strongly relied upon by the CBI as against the petitioner, Paresh Paul is a speech delivered by him in the locality about 12 days ago, expressing disapproval about the conduct of the victim deceased and his brother and promising to oust them from the locality. This speech was admittedly given a few days before the incident and there was apparently no direct provocation to murder anyone.

18. In this context, the only allegation against the petitioners Swapan Somaddar and Papiya Ghosh is that at the time of giving of such speech by the said Paresh Paul, they were present on the dais, but did not prevent him from delivering such speech.

19. It is pertinent to note that the prosecution case is not that the petitioners Paresh Paul and Swapan Somaddar were present at the place of occurrence on the relevant time.

20. Be that as it may, the above materials were also available to the CBI at the time of submission of the first supplementary charge sheet in 2021. Yet, they chose not to file the charge sheet against the said petitioners.

21. So far as the petitioner namely Rajdip Singh is concerned, he is also alleged to be a political activist of the ruling political dispensation of the State. Although it has been alleged by the brother of the victim/deceased that he had taken name of the said petitioner in his letter dated 02.05.2021, the said letter actually does not specifically disclose the name of the said Rajdip Singh. However, there is a reference to unnamed others who might be involved.

22. The accused, Rajdip Singh stands on a different footing than the other petitioners as an allegation has been made against

him of being directly involved in the attack. However, the first time his name was specifically taken by the brother of the victim deceased was in a statement given much later.

23. An allegation of threat during pendency of this application has also been made by the brother of the victim deceased against the present petitioner, although the same has been denied by the learned counsel for the said petitioner.

24. It is germane to mention that the Hon'ble Supreme Court has often frowned upon the practice of taking the accused into custody when they appear pursuant to issuance of summons, especially when they had not been arrested during investigation and had co-operated with the same.

25. In Aman Preet Singh (supra), the Hon'ble Apex Court held as follows.

“12. Insofar as the present case is concerned and the general principles under Section 170 CrPC, the most apposite observations are in sub-para (v) of the High Court judgment in the context of an accused in a non-bailable offence whose custody was not required during the period of investigation. In such a scenario, it is appropriate that the accused is released on bail as the circumstances of his having not been arrested during investigation or not being produced in custody are itself sufficient to entitle him to be released on bail. The rationale has been succinctly set out that if a person has been enlarged and free for many years and has not even been arrested during investigation, to suddenly direct his arrest and to be incarcerated merely because chargesheet has been filed would be contrary to the governing principles for grant of bail. We could not agree more with this.”

The spirit of this ratio needs to be scrupulously followed.

26. Reference may also be made to the decisions in Siddharth (supra) and Tarsem Lal (supra).

27. It will be for the trial Court to finally decide whether the above facts and circumstances as appearing against the present petitioners would satisfy the ingredients of the allegations leveled.

28. However, considering the materials available in the case diary as discussed above, the fact that although most of the evidence against the present petitioners were available to the CBI at the time of filing of the first supplementary charge sheet, except the material presented against the petitioner, Rajdip Singh, the CBI had chosen not to make the corresponding petitioners accused in the said charge sheet, the fact that the CBI filed second supplementary charge sheet over such materials after about four years from the date of their first charge sheet, the fact that the petitioners had co-operated with the investigation in the meantime, that summons was issued upon a finding by the Court that no case for issuance of warrant of arrest was made out, the fact that inspite of similar stand taken in case of some other co-accused, they were taken into custody upon surrender and the alleged roles ascribed to each of the present petitioners, this Court is of the considered view that the petitioners are entitled to be released on bail when they appear in response to the summoning order.

29. In the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.1,00,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Special Court and on further conditions that –

- (i) the petitioners shall not threaten witnesses.

(ii) the petitioners shall not enter Sitala Tala Lane, Post and Police Station – Narkeldanga, Kolkata – 700011, where the mother and the brother of the victim reside, till the completion of the trial.

(iii) the petitioner Paresh Paul shall not give any provocative speech, especially concerning the family members of the victim/deceased.

(iv) the petitioners shall not leave the country without the permission of the trial Court.

(v) the petitioners shall attend the Court regularly on dates fixed.

30. In case of violation of any of the above conditions, the bail to be granted to the petitioners shall be liable to be cancelled without any further reference to this Court.

31. In view of the subsequent allegation of involvement of the petitioner Rajdip Singh in an incident of threat during pendency of the application, a proceeding shall be initiated against him under Section 129 of the BNSS for furnishing bond for good behavior.

32. The applications for anticipatory bail are, accordingly, disposed of.

33. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)