

04.09.2025  
Sl. No.55  
NB

**C.R.M. (A) 2654 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.

And

In the matter of: Md. Monibur Rahaman @ Monibur Rahaman  
... petitioner

Mr. Prosenjit Mukherjee,  
Mr. Jahangir Hossain,  
Ms. Tiya Ghosh.  
...for the petitioner.

Mr. Anupam Das Adhikari,  
Ms. Suruchi Saha.  
...for the State.

Mr. Satadru Lahiri,  
Mr. Sourav Pal.  
...for the de facto complainant.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner affirmed the application for anticipatory bail on 23.07.2025. After affirming the application, he went to his relative's house at Khidderpore. He was arrested there in connection with Park Street Police Station Case No.111 dated 24.07.2025. The anticipatory bail application was, thereafter, filed on 24.07.2025. Since 24.07.2025, the anticipatory bail application remained pending in connection with the present case. On 22.08.2025, the concerned Investigating Officer prayed for showing the accused petitioner arrested and on 22.08.2025, the Additional Chief Judicial Magistrate, Rampurhat directed issuance of production warrant and fix 06.09.2025 for production. On 25.08.2025, the anticipatory bail application was moved. But, on the prayer of the de facto complainant, the matter was adjourned on the

ground of maintainability. On 27.08.2025, the petitioner submitted that no production warrant has been issued. The State was asked to produce a report. It is an admitted position that till 25.08.2025 no production warrant was issued. Therefore, in terms of the judgment of the Hon'ble Apex Court in ***Dhanraj Aswani*** reported at 2025 (2) CHN SC 1, the anticipatory bail application was maintainable. Learned counsel further submits that the petitioner has been falsely and maliciously implicated in this case. The petitioner happens to be the person who had married owner of the house. It is thus alleged that the petitioner has stolen articles from the house of the wife. There is a civil dispute regarding construction of the house, so far as it relates to the present petitioner.

Learned counsel appearing on behalf of the de facto complainant submits that in the instant case, the production warrant was issued on 22<sup>nd</sup> August, 2025 and was served upon the petitioner on 25<sup>th</sup> August, 2025. But this application was filed on prior to that. Even, if during pendency of an application for anticipatory bail, a person is arrested then the application for anticipatory bail becomes infructuous. Likewise here, since the production warrant has already been served upon the present petitioner, the anticipatory bail application has become infructuous. On merits, it is denied that the petitioner has got married to the owner of the household where the theft took place. KYC documents were stolen and were used to transfer property by impersonating a lady. A specific case has been registered in this regard. In fact, the petitioner has as many as six criminal antecedents.

Learned counsel appearing on behalf of the State submits that the anticipatory bail application is not maintainable as

production warrant has already been served upon the present petitioner. On merits, reliance is placed on statements of neighbours and co-villagers as well as the father of the accused.

It appears that after the petitioner filed the application for anticipatory bail, he was arrested in connection with another case. During his custody, a production warrant was issued and was served upon the present petitioner during pendency of this application. This is akin to arrest of the petitioner in connection with the present case.

Therefore, the application for anticipatory bail has become infructuous. Accordingly, the same is dismissed.

Urgent Photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

**(Jay Sengupta, J.)**