

28.10.2025  
Sl. No.11  
NB

**CRM (A) 2944 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 Chanchal P.S. Case No.738/2025 dated 12.06.2025 under Sections 126(2)/115(2)/77/110/351(3) of BNS and under Section 10 and 14 of the POCSO Act.

And

In the matter of: XXX

... petitioner

Mr. Sagar Saha,  
Ms. Nayana Mukhopadhyay.  
...for the petitioner.

Mr. Subhamoy Bhattacharya,  
Ms. Debadrita Mondal.  
...for the State.

Md. Wasim Akram,  
Ms. Sabina Parveen,  
Md. Aniquil Rahaman.  
...for the de facto complainant.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner has been falsely implicated in this case because he was a witness in a murder case where the present de facto complainant was an accused. The present de facto complainant was made an accused in the case of murder of her son in law. Charge sheet has been submitted in that other case. The present FIR was registered only on 06.12.2024, much after the alleged date of occurrence. The petitioner was issued a notice under Section 41A of the Code. He appeared, but was not arrested. Now, strangely a warrant of arrest was issued against him.

Learned counsel appearing on behalf of the de facto complainant opposes the prayer of the anticipatory bail and submits

as follows. The case of murder has nothing to do with the instant case as would be clear from the statement of the 9 years old victim. Charges under Sections 4 and 6 of the POCSO Act should have been imputed. But, only Sections 10 and 14 of the POCSO Act are there at present. This was not a fit case where a notice could have been issued by the Investigating Officer under Section 41A of the Code. Yet, the same was done. The petitioner has not yet been arrested.

Learned counsel appearing on behalf of the State relies on the case diary and strongly opposes the prayer for anticipatory bail. He submits that so far as the murder case is concerned, the statement of the present petitioner as a witness is substantially speculative in nature, Clearly he is not a star witness in that murder case. One wonders what purpose would be served in falsely implicating him. The delay in registering the present FIR gets explained in the statement of the 9 years old victim. From the statements made by the said victim before the Magistrate, it is clear that higher charge ought to have been included in the charge sheet.

It is true that the petitioner is incidentally a witness in an earlier murder case. However, he is clearly far less than a star witness.

Considering the incriminating materials available in the case diary including the vivid details of the offence given by the 9 years old victim girl in her statement before the Magistrate, I do not consider this to be a fit case for granting anticipatory bail to the present petitioner.

The application for anticipatory bail being **CRM (A) 2944 of 2025** is, thus, rejected.

The personal appearance of the Investigating Officer is noted and is dispensed with.

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.)**