

03.10.2025
Item no. 159.
Court No.7.
pg/sg

CRM (A) 3325 of 2025

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973/Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Dhaniakhali Police Station Case No. 150/2012 dated 29.12.2012 under Sections 302/201 IPC.

And

In the matter of: Sekh Mohammad @ Sk. Mohammad
.....Petitioner.

Mr. Moyukh Mukherjee Mr. Arunava Ganguly	...for the petitioner.
Mr. Bitashok Banerjee Mr. Akash Gnguly	...for the State.

1. Heard learned Advocates for the petitioner and for the State at length.
2. Perused the entire materials as placed before this Court including the materials as available in the case diary.
3. The present accused petitioner is seeking parity with the accused, who has been enlarged on anticipatory bail by a coordinate Bench of this Court on 06-08-2025 in CRM(A) 1986 of 2025.
4. It is submitted that considering the entire materials as placed before this Court, a favourable order for anticipatory bail may be passed.
5. Such prayer is vehemently opposed on behalf of the respondent State. It is contended that from the memo of evidence as filed today and as has been taken on record, it would reveal that initially, warrant of arrest was issued against the present accused petitioner long back which remained unsuccessful and for which the learned Trial Court allowed the prayer for proclamation and attachment.

6. It is submitted further that even after issuance of proclamation and attachment under Sections 82 and 83 of the Code of Criminal Procedure corresponding to Sections 84 and 85 of BNSS, the present accused petitioner could not be apprehended and accordingly, the learned Trial Court passed an order of attachment under Section 83 BNSS.
7. It is thus submitted on behalf of the State that it is a fit case for rejection of the prayer.
8. The learned Counsel appearing on behalf of the accused petitioner at this juncture placed his reliance upon the reported decision of Asha Dubey vs. State of Madhya Pradesh reported in 2024 SCC OnLine SC 5633. It is submitted that in the case of Asha Dubey (supra), the Hon'ble Supreme Court has categorically stated that declaration under Section 82 BNSS for issuance of proclamation cannot be a sole embargo for refusing the prayer for anticipatory bail.
9. On careful consideration of the entire materials as placed before this Court, it reveals that several attempts for apprehending the present accused petitioner failed. It reveals further that finding no other alternative, the prosecution has approached the learned Trial Court for issuance of order of proclamation and attachment and even such attempt was unsuccessful.
10. As rightly pointed out by the learned Advocate for the State that the present accused petitioner is evading arrest for a considerable length of time.
11. Considering the conduct of the present accused petitioner, this Court cannot persuade itself to allow the prayer for anticipatory bail as prayed for. The prayer for anticipatory bail is thus considered and rejected.
12. CRM (A) 3325 of 2025 is dismissed.

(Partha Sarathi Sen, J.)