

06.01.2025
Sl. No.17
akd
[PARTLY
ALLOWED]

C. R. M. (A) 4652 of 2024

In Re: An application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed on 03.12.2024 in connection with Tamluk Police Station Case No. 649 of 2023 dated 14.06.2023 under Sections 406/420/467/468/471/472/473/341/323/354B/506/34 of the Indian Penal Code and Sections 3(1)(r)/3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

And

In Re: ***Dipankar Maity & Anr.***

... .. Petitioners

Mr. Mukteswar Maity
Ms. Nupur Chaudhuri

... .. for the petitioners

Mr. Ranadeb Sengupta
Mr. Abhishek Verma

... .. for the State

1. It is submitted on behalf of the petitioners that they have refunded a major portion of the deposits made in the company. Accordingly, they pray for anticipatory bail.
2. Learned Advocate for the State opposes the prayer for anticipatory bail. He submits petitioner no.1 is the promoter and Director of '*M/s. Smart Choice*', a firm which illegally invited deposits from members of the public and misappropriated them. Petitioner no.2 is his wife and also a Director.
3. We have considered the materials on record. Though FIR has been registered under Sections 3(1)(r)/3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as 'Act of 1989'*), we find the imputations had not been made in public nor any witnesses stated they heard the imputations relating to caste slur. Prima facie, ingredients of the alleged offences under the Act

of 1989 are not disclosed and we are inclined to entertain the application as per law declared in *Shajan Skaria vs. State of Kerala*¹. We have also taken into consideration the fact that similar cases alleging misappropriation of money of depositors have been registered against the petitioners. Petitioner no.1 is involved in running of the affairs of the company. His prayer for anticipatory bail has been turned down in those cases. Allegations in the present case are similar. Hence, we are not inclined to grant anticipatory bail to petitioner no.1.

4. Accordingly, the prayer for anticipatory bail of petitioner no.1 namely, **(1) Dipankar Maity** is rejected.

5. However, petitioner no.2 is the wife of petitioner no.1. She appears to be a name lending Director and no active participation in the affairs of the firm is demonstrated. She has been granted pre-arrest bail in other cases. Hence, we are inclined to extend the same privilege to petitioner no. 2.

6. Accordingly, we direct in the event of arrest, the petitioner no. 2, namely **(2) Suhindita Maity**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and on further condition that the petitioner no.2 shall appear before the jurisdictional court and pray for regular bail within four weeks from date.

7. The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2024 SCC OnLine SC 2249

