

21.11.2025
Item no.13(DL)
Court No.3
srm
(Allowed)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CRIMINAL MISCELLANEOUS JURISDICTION**

C.R.M. (A) 707 of 2025

In Re:- An application for anticipatory bail under Section 482 of the BNSS, 2023 in connection with Sitalkuchi P.S. Case No.302 of 2014 dated 30.10.2014 under Sections 406/409/420/468/471/120B/34 of the Indian Penal Code.

In the matter of : Sri Bhabendranath Adhikary
... Petitioner.

Mr. Jagriti Mishra,
Mr. Govindo Roy,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das
...for the Petitioner.

Mr. Nilay Chakraborty, APP
Mr. Abhijit Sarkar,
Mr. Sourav Ganguly
...for the State.

1. On the prayer of learned Advocate for the petitioner, leave is granted to correct the police station case number in the cause title of the application.
2. Learned Advocate for the petitioner submits that the case was initiated way back in the year 2013-14. The petitioner on superannuation retired from service as a Joint Block Development Officer in the year 2015. The name of the petitioner surfaced after filing of supplementary charge sheet in the year 2025. Needless to mention that the petitioner was the first enquiry officer. There are 14

accused out of whom 3 of the co-accused persons, who are officers of postal authority, have been granted anticipatory bail by this Hon'ble Court. Referring to Section 7(4) of The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (*hereinafter referred to as 'MGNREG Act, 2005'*) he submits that the Programme Officer is the person who is responsible for sanction and disbursement of the fund. As per Section 15 of MGNREG Act, 2005, a Programme Officer would be a person not below the rank of Block Development Officer. The petitioner being the Joint Block Development Officer cannot be a Programme Officer, since he is below the rank of Block Development Officer and cannot be held responsible for the alleged offence. Referring to Section 13 of the MGNREG Act, 2005, he submits that the panchayats at the district, intermediate and village levels are the principal authorities for planning and implementation of the schemes of the Government. As per Section 14 of the MGNREG Act, 2005, the District Programme Coordinator is responsible for implementation of the scheme in the district in accordance with the provisions of the Act. Section 16 of MGNREG Act, 2005 makes the gram panchayat responsible for identification of the projects in the gram panchayat area under a scheme and the Act also provides for social audit of work by gram sabha in terms of Section 17. For the sake of transparency and accountability, Section 23 provides that the District

Programme Coordinator and all implementing agencies in the district shall be responsible for the proper utilization and management of the funds placed at their disposal for the purpose of implementation of the scheme. The complicity of the petitioner arises from the fact that he is only a joint signatory, along with Block Development Officer, to the cheques those were issued to alleged fake account holder. Neither the petitioner has any connivance of creating fake bank accounts for transfer of those cheque amounts nor he is responsible for any of the actions as required under the Act. The petitioner has all along cooperated with the investigation in terms of the previous order of this Court and is willing to cooperate in future, if so requires. He seeks for grant of anticipatory bail in favour of the petitioner.

3. Mr. Nilay Chakraborty, learned Additional Public Prosecutor submits that this petitioner is a joint signatory to the cheques those were disbursed to fake persons and there is huge misappropriation of public funds. The involvement of this petitioner transpired in the subsequent stage of investigation. On such score, he seeks for dismissal of the application for grant of anticipatory bail.
4. Perused the case diary and the materials on record.
5. Admittedly, the petitioner is a joint signatory, along with the Block Development Officer, who is the Programme Officer, of the cheques those were disbursed allegedly to

the fake accounts. Undisputedly, the petitioner is the Joint Block Development Officer.

6. For the sake convenience in discussion, Section 15 of MGNREG Act, 2005 is reproduced hereunder:

“15. Programme Officer.– (1) *At every Panchayat at intermediate level, the State Government shall appoint a person who is not below the rank of Block Development Officer with such qualifications and experience as may be determined by the State Government as Programme Officer at the panchayat at intermediate level.*

(2) *The Programme Officer shall assist the Panchayat at intermediate level in discharging its functions under this Act and any Scheme made thereunder.*

(3) *The Programme Officer shall be responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.*

(4) *The Programme Officer shall prepare a plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from intermediate panchayats.*

(5) *The functions of the Programme Officer shall include–*

- (a) *monitoring of projects taken up by the Gram Panchayats and other implementing agencies within the Block;*
- (b) *sanctioning and ensuring payment of unemployment allowance to the eligible households;*
- (c) *ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block;*
- (d) *ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit;*
- (e) *dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block; and*
- (f) *any other work as may be assigned to him by the District Programme Coordinator or the State Government.*

(6) *The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.*

(7) *The State Government may, by order, direct that all or any of the functions of a Programme Officer shall be discharged by the Gram Panchayat or a local authority.”*

7. Upon bare reading of the aforesaid provision, it manifest that at every Panchayat at intermediate level, the State Government shall appoint a person who is not below the rank of Block Development Officer with such qualification and experience as may be determined by the State Government as Programme Officer at the panchayat

intermediate level. On analysis of the provisions under Section 15(5)(b) and Section 15(5)(c) of MGNREG Act, 2005, it is quite evident that a Programme Officer has the function of sanctioning and ensuring payment of unemployment allowance to the eligible households and ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within the Block. The petitioner is the Joint Block Development Officer and not a Block Development officer who under the Act is to discharge the function of Programme Officer. There is no case made out by the prosecution that the petitioner acted as a Programme Officer. Section 23(1) of MGNREG Act, 2005 provides that the District Programme Coordinator and all the implementing agencies shall be responsible for the purpose of proper utilization and management of fund. Further Section 23(5) provides that if any dispute or complaint arises concerning the implementation of a Scheme by the Gram Panchayat, the matter shall be referred to the Programme Officer.

8. Bearing in mind the provisions of law as discussed above and the extent of complicity of the petitioner, I am inclined to allow the prayer of the petitioner for anticipatory bail.
9. Accordingly, in the event of arrest the petitioner, namely **Sri Bhavendranath Adhikary** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties

of like amount each, to the satisfaction of the arresting officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 and shall meet the Investigating Officer of the concerned police station once in a fortnight until further orders. The petitioner is directed to join investigation and cooperate with the Investigating Officer.

10. This application for anticipatory bail is, thus, allowed.
11. ***CRM (A) 707 of 2025*** stands disposed of.

(Bivas Pattanayak, J.)