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C.R.M. (DB) 947 of 2025

In Re: An application for cancellation of bail under Section 483(3) of the
Bhartiya Nagarik Suraksha Sanhita, 2023;

Profectus Capital Pvt. Limited
Versus
The State of West Bengal & Ors.

Mr. Satadru Lahiri
Mr. Amaan Deep Gupta
Mr. Deep Bairagi.
...for the petitioner.

Mr. S.S. Imam
Mr. Debarshi Brahma.
...for the State.

Mr. Aniruddha Bhattacharyya
Mr. Uttam Mukherjee
Ms. Rai Das
Ms. Anushka Bose.
...for the opposite party nos.2 to 4.

Learned advocate appearing for the petitioner has challenged the order of bail granted on 09.01.2025 which has its genesis in an order dated 06.01.2025. Learned advocate appearing for the petitioner submits that the order dated 06.01.2025 was obtained on misinterpretation of law as earlier the application for anticipatory bail was rejected on 07.10.2024 by the same forum. In the order dated 06.01.2025 wherein the anticipatory bail was granted to the present opposite parties, the said factum, however, was not suppressed and the order reflects that earlier on 07.10.2024 in Criminal Misc. Case No.159 of 2024 the prayer for anticipatory bail of the opposite parties were rejected. Learned advocate appearing for the petitioner also submits that the ground

on which the application for anticipatory bail was allowed relates to a subsequent compliance of the provisions of Section 35(3) of the BNSS.

Learned advocate for the accused/opposite parties also submits that from time to time the repayment towards the loan was being made by the accused opposite parties which as a whole aggregated to a sum of Rs.20,29,835/-.

Learned advocate for the petitioner, on the other hand, submits that the machine which was hypothecated was not traceable and the investigating agency did not put in efforts also to recover the machine which was misappropriated and which could not be traced out. In spite of the same charge-sheet has been submitted. To that effect, learned advocate for the petitioner relies upon the order passed on 24.03.2025 in WPA 5508 of 2025.

I have taken into account the circumstances relating to effective investigation and on the other hand the liberty of the accused/opposite parties. The manner in which Criminal Misc. Case No.194 of 2024 was allowed cannot be approved. The said order on the face of it suffers from want of application of mind as repeated applications under Section 482 of the BNSS cannot be filed before the same forum. The issues canvassed for change of circumstances are too technical for a court to appreciate a subsequent anticipatory bail application when the earlier application has been rejected by the court. However, at the same time, I find that the opposite parties were subsequently granted bail and there are no adverse reports from the State so far as the

conduct of the accused/opposite parties are concerned.

The subject matter of the case also involves offences, which are triable by the learned Magistrate. The order dated 06.01.2025 passed by the learned Chief Judge, City Sessions Court, Calcutta is difficult to be appreciated. No exceptional circumstances have been made out to grant anticipatory bail in a subsequent application.

However, having considered the merits of the case, the period for which the accused opposite parties have been enjoying the liberty and no supervening circumstances are there, I am not inclined to interfere with the order of bail granted on 09.01.2025.

Petitioner is aggrieved by the fact that till date the machine could not be recovered. So far as the same is concerned, if the petitioner is dissatisfied with the investigation or the report under Section 193 of the BNSS submitted before the jurisdictional court, it would be the liberty of the petitioner, if so, advised to invoke the necessary provisions of law. In case such an application is filed, learned Magistrate would dispose of the same within a month from the date of the filing of the application. At this stage, after a period of 12 months of the bail having been granted, I am not inclined to interfere with the order of bail.

With the aforesaid observations, CRM(DB)947 of 2025 is disposed of.

Case diary be returned to the learned advocate appearing for the State.

All parties shall act on the server copy of this order duly

downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)