16.
05-10-2026
(ct. no.34)
(rejected)
debajyoti

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

CRM(A) 3334 of 2026

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with Hare Street Police Station Case No.131 of 2025 dated 24-06-2025 under Sections 61(2)/318(4)/316(2)/338/ 339 and 340(2) of the Bharatiya Nyaya Sanhita, 2023.

- A n d -

In the matter of : Sanjay Kumar Agarwal @ Sanjay Kumar Inderchand Agarwal
.... Petitioner.

Mr. Sourav Chatterjee, Sr. Adv.,
Ms. Subhasree Patel, Adv.,
Ms. Shruti Mukhopadhyay, Adv.,
Ms. Sneha Bera, Adv.
... For the Petitioner.

Ms. Rajashree Venket Kundalia, Adv.,
Mr. Debayan Ghosh, Adv.
... For the State.

Mr. Amarta Ghose, Adv.,
Mr. Souryadeep Ghosh, Adv.
... For the defacto complainant.

1. This application has been filed by the petitioner under Section 482 of the BNSS, 2023 who is one of the Directors of the accused company. The specific case of the petitioner is that there was a longstanding commercial transaction between the parties and in terms of the same, an agreement was effected and subsequently, a part payment of the claim was made which has been admitted and despite that, a complaint has been lodged by the present

complainant alleging that a huge amount of money has not been paid by the present petitioner.

2. Mr. Chatterjee, learned Senior Advocate, representing the petitioner, submits that allegations levelled against the petitioner are wholly bald ,vague and unsustainable ,being founded merely upon a purported copy of a deed of settlement allegedly received by the complainant through post. Such an unauthenticated document by itself, carries no legal sanctity or evidentiary value and therefore cannot form the basis for fastening any criminal liability upon the petitioner. It is further submitted that specific reply was given to the demand notice denying that any such claim is maintainable since he has made a part payment. In addition to that, it is submitted that the company is in CIRP and that has been admitted and the necessary document has been annexed in his application for anticipatory bail wherefrom it can be found that the defacto complainant has registered their claim as an operational claim. By filing supplementary Affidavit it is further argued that he obtained bail from the Hon'ble Apex Court as well as from the High court at Delhi. There is no specific allegation of dishonest representation, inducement or any overt act against the petitioner.

3. The supplementary affidavit has also been filed on behalf of the petitioner annexing the various orders passed by the Hon'ble Supreme Court as well as by the High Court in connection with other proceedings pending against the present petitioner. In addition he has disclosed the criminal antecedent before this court and also that he has been granted bail in most of the cases. The further point raised is that since the present petitioner is the Director of the company and concept of vicarious liability is alien to criminal jurisprudence .The company is an accused in the present case and can be proceeded against the company. No specific overt act is mentioned so far as the present

petitioner is concerned in the written complaint. That apart, it is submitted that the petitioner will cooperate with the investigating agency and, accordingly, prays for anticipatory bail and undertakes to abide by all the conditions imposed by the Court.

4. On behalf of the State, objection has been raised and it is submitted that there are sufficient materials pending against the present petitioner and in addition to that, a settlement deed has been seized and the charge of forgery also has been imposed upon the petitioner. It is further submitted if the prayer for anticipatory bail is allowed at this stage, the investigation, which is at the nascent stage, will be jeopardized.

5. On behalf of the defacto complainant, objection has been raised and it is submitted that the documents annexed with the petition manifest that the present petitioner is a whole time Director so he cannot evade his responsibility .In addition, CIRP is for recovery of dues but the complaint has been lodged for commission of serious offences .Accordingly prayed for dismissal of the application.

6. Having heard all the parties and going through the materials on record, at the outset it transpires from the report submitted by the State that the production warrant which was issued has not yet been given effect and to that effect, the report has been submitted, be taken on record.

7. The memo of evidence is also handed over. Let it be taken on record which reflects there are several proceeding pending against him.

8. Heard the submissions .On perusal of the Case Diary and the memo of evidence, it is glaringly visible that several other complaints are pending against the present petitioner not only in this court but pending in various states. Some of those matters went up to the Hon'ble Supreme Court where

the present petitioner has been granted the benefit of Section 483 BNSS with certain stringent conditions.

9. This Court is also of the considered view, that the nature of allegation levelled against the petitioner may be a dispute arises out of breach of terms and conditions which fails to attract any ingredient regarding Sections 318(4)/316(2) BNS. However, so far as the allegation under Section 338 of BNS is concerned, since a document has been seized and no report has yet been received and the investigation is at a very nascent stage, this Court is not inclined to pass any favorable order so far as the present petitioner is concerned at this stage.The prayer for anticipatory bail is, therefore, rejected.

10. The application for anticipatory bail is, thus, dismissed.

11. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

12. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

[Chaitali Chatterjee (Das), J.]