Item No.-01
Ct No.07
26.11.2026
R.D Barua

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 771 of 2026

In Re: - An application for Anticipatory Bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Siliguri Police Station Case No.408 of 2024 dated 01.05.2024 under Sections 363/365/366/370(4)/376(3)/109 and 120B of Indian Penal Code, 1860 read with Sections 6 and 17 of POCSO Act, 2012 and 3/4/5/6 and 9 of Immoral Traffic (Prevention) Act, 1956 corresponding to Special POCSO Case No.42(05) of 2024.

And

In the matter of: Sri Ukil Mahato @ Okil Mahato @ Pradip Mahato

.... Petitioner

Mr. Prajnadeepta Roy
Mr. Jhankar Chettri
Mr. Rahul Yadav
Mr. J. Bhattacharya

...for the petitioner.

Mr. Rounak Ghosh
Ms. Aditi Guha

... for the de-facto complainant

Mr. Avrojyati Das, Ld. APP
Mr. Bijoy Bikram Das
Mr. Nigam Mittal

... for the State

1. Learned counsel for the petitioner argues that the petitioner was framed on the basis of a complaint in which the name of the petitioner featured because the father of the victim girl was forced to include such name on the basis of a previous criminal case initiated against the petitioner. Learned counsel submits that the apparent premise of implicating the petitioner is that the

petitioner is the owner of the house where the victim girl was detained for the purpose of sexual exploitation for about a month. However, the petitioner denies being the owner of the said house. Furthermore, it is pointed out that one Rahmat Ali, a co-accused standing on a more serious footin,g has already been enlarged on bail.

2. Learned counsel submits that in the statement given by the victim girl herself, the petitioner has not been mentioned as one of the assailants.

3. Learned counsel for the State seriously opposes the prayer for anticipatory bail and submits that the petitioner ought to be refused the benefit of anticipatory bail in view of suppression of his criminal antecedent inasmuch as the petitioner has already been named as a charge-sheeted accused in a previous case of similar nature.

4. Secondly, it is submitted that although statements under Section 180 of BNSS might not have strong evidentiary value in a criminal trial, nonetheless, for the purpose of consideration of anticipatory bail, there are two statements made by two neighbors of the petitioner which categorically disclose that the petitioner had kept the victim girl in his house for a month and has similar antecedents inasmuch as other girls have been brought to his house and forced into commercial sexual exploitation.

5. Learned counsel also places reliance on the statement of the victim girl under Section 183 of the BNSS which, according to

learned counsel for the State, clearly clinches the issue against the petitioner.

6. Learned counsel appearing for the de facto complainant submits on instruction that the de facto complainant has no objection to the grant of anticipatory bail to the petitioner.

7. Upon hearing learned counsel for the parties, we find certain salient features in the matter. The fact that the de facto complainant, being the father of the victim girl, has no objection to the anticipatory bail prayer of the petitioner, has no significance whatsoever in the circumstances of the case, since the nature of the allegations are not limited to the personal cause of action of the victim girl or the de facto complainant but has wider ramifications, apparently having ingredients of a human trafficking racket.

8. Moreover, the argument of the petitioner that Rahmat Ali, a co-accused person, has been granted bail is also not of much use to the petitioner insofar as from the order of bail of the said Rahmat Ali, it is evident that the primary consideration therein was the long period of detention (that is, 620 days) which the said Rahmat Ali had already suffered when bail was granted, and a no-objection by the de facto complainant, which we have held above to be of no significance in view of the facts of the case.

9. Thus, the aforesaid considerations can be ruled out.

10. Be that as it may, there has to be established a direct connect between the petitioner and the offence for the purpose of

incarcerating the petitioner. As rightly contended by learned counsel for the petitioner, the two statements under Section 180 of the BNSS, given purportedly by the neighbours of the petitioner, do not have any evidentiary value insofar as the prospective trial is concerned. Although, in the said statements, the purported neighbours have categorically implicated the petitioner in the offence, fact remains that such statements are overridden by the statement made by the victim girl herself under Section 183 of the BNSS which contradicts such statement of the purported neighbours. Within the four corners of the statement made by the victim girl under Section 183, I do not find any whisper about the petitioner. The victim girl stated in the relevant portion thereof that when the victim girl's mother went to the place where she was being detained, the owner of the house Benga fled with her and thereafter roamed around with her and ultimately took her to the police station. The other allegations in the said statement also revolve around the said Benga.

11. In the teeth of such categorical statement of the victim girl herself, the statements made by the purported neighbours pales into insignificance.

12. Secondly, on the query of Court, the State fails to produce any conclusive document which shows that the house where the victim girl was detained belongs to the petitioner. Taken in conjunction with the perception of the victim girl herself that the house belongs to Benga and not the petitioner, it cannot be said

beyond doubt that the petitioner had any direct involvement in the offence.

13. Although the Court is aware of the guidelines given by the Hon'ble Supreme Court in *Zeba Khan Vs. State of U.P. and Others* reported at *2026 SCC OnLine SC 188* to the effect that criminal antecedents, including previous F.I.R numbers and Sections, are to be disclosed in an application for bail, mere non-mention of one of the components thereof does not *per se* vitiate an application for anticipatory bail in the event the other relevant considerations are in favour of the petitioner.

14. From the submissions of the State, it is found that although the petitioner has been implicated in a previous case of similar nature, the petitioner has been granted bail and the matter is still awaiting trial. Thus, at this stage it cannot be said beyond doubt that the petitioner was indeed involved in the previous offence as well.

15. In such view of the matter, this Court is of the opinion that the petitioner is entitled to the benefit of anticipatory bail subject to strict conditions.

16. Hence, CRM(A) 771 of 2026 is allowed on contest, thereby granting anticipatory bail to the petitioner. In the event of arrest, the petitioner shall be enlarged on bail upon furnishing bond of Rs. 20,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge (POCSO), Additional District and Sessions Judge (First Court),

Siliguri and the petitioner shall not leave the territorial jurisdiction of the police station having jurisdiction over his residence as disclosed in the present application. Furthermore, the petitioner shall meet with the Investigating Officer once every week and shall cooperate fully with the investigation.

17. Before parting with the matter, this Court expresses its displeasure at the manner in which the charge sheet has been filed, where the primary two accused, namely Champa and Benga, have not been charge-sheeted on the flimsy pretext that they could not be identified.

18. It is expected that the police shall continue further investigation and file a supplementary/additional charge sheet specifically mentioning the said two accused persons as charge-sheeted accused, in the light of the statements made by the victim girl under Section 183 of the BNSS and in her complaint.

19. It is further clarified that the above order shall not preclude the prosecution from seeking cancellation of bail in the event incriminating material is found against the present petitioner subsequently upon further investigation.

(Sabyasachi Bhattacharyya, J.)