

Cr. Misc. Case No. 313/2026
CNR No. WBHW0100 0777 2026
Present: Sri Mainak Dasgupta
Sessions Judge, In-charge, Howrah.
J.O. Code – WB01070

Order No.04 dated 09.03.2026.

The application u/S.482 BNSS arising out of Bagnan P.S. Case No. 286 of 2017 dated 27.05.2017 u/Ss. 399/402 of IPC and 25(i)(a)/27 Arms Act and 9 (b) of I.E. Act, filed by the accused/petitioner namely, Sobedar Middey, is taken up for hearing.

Heard Ld. Advocate for the accused/petitioner who submitted that the present petitioner was also entangled in various other cases and also fairly submitted that the prayer for anticipatory bail was also rejected by the Hon'ble High Court, Calcutta. With such submissions, Ld Advocate for the accused/petitioner asserted the prayer for anticipatory bail.

Ld.P.P. has fairly submitted that the petitioner had preferred the similar prayer before this Court which was registered as CMC No.202/2022 and thereafter during the course of hearing it came to the light that the prayer for anticipatory bail was already rejected by the Hon'ble High Court and following such, the petitioner had not pressed such petition before this Court.

Perused the TCR and CD.

Considered the submission made by the Ld. Advocate for the accused and the Ld Public Prosecutor.

REASONS

As regards pre arrest bail the Hon'ble Apex Court in Sadhna Chaudhary Vs. State of Rajasthan & Anr., reported in 2022 (237) AIC 205 (SC), has been pleased to hold as follows:-

"14. Law on the applicability or grant of anticipatory bail under section 438 Cr.P.C. may be briefly summarised as under: 14.1. In Shri Gurbaksh Singh Sibbia and Others v. State of Punjab, a Constitution Bench of this Court, Chief Justice Y.V. Chandrachud, speaking for the Court dealt with in detail on the considerations for grant of anticipatory bail. 14.2. In Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others²; this Court relying upon the Constitution Bench judgment in Shri Gurbaksh Singh Sibbia laid down in paragraph 112 of the report the following factors and parameters to be considered while dealing with an application for anticipatory bail:

"(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even

greater care and caution because over implication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant;

x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

It is submitted by the Ld. Advocate for the petitioner himself that the petitioner has also entangled in various other criminal cases and such itself does not entitle the petitioner to the relief for anticipatory bail. Furthermore, once the prayer has been rejected by the Hon'ble High Court, Calcutta, this Court should layoff its hand from such similar prayer.

Hence, the petition praying for anticipatory bail stands rejected.

LCR and CD be returned.

The criminal misc case is disposed of.

The order be uploaded in the CIS without delay.

Dictated & corrected by me

S. J.

Sessions Judge, In-charge, Howrah