

***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

27.08.2019.
28
as
(Rejected)

C.R.M. 708 of 2019

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 19.08.2019 in connection with N.D.P.s. Case No.52 of 2017 arising out of N.C.B. Crime No.34/NCB/KOL/2017 under Sections 20(b)(ii)(c) of the N. D. P. S. Act for violation of prohibition impose under Section 8 (c) of N. D. P. S. Act.

In the matter of : Atul Sarkar.

... Petitioner.

Mr. Ms. Supriya Singh.

...for the Petitioner.

Mr. Sami Pal.

.....for the NCB.

Heard the learned Advocates appearing for the parties.

It is submitted on behalf of the petitioner that he is not the owner of the premises from where the narcotic substance i.e. 173 kgs. of ganja was recovered.

Learned Advocate appearing for the NCB opposes the prayer for anticipatory bail and submits that the voters' list and documents relating to purchase of vehicle by the petitioner would show that he is a resident of the said premises. Furthermore, wife of the petitioner received notice under Section 67 of the N. D. P. S. Act. in the said premises.

We have considered the materials on record. There are various documents including receipt of notice under Section 67 of the N. D. P. S. Act by the wife of the petitioner in

premises from where the alleged recovery of narcotic substance above commercial quantity was made. These circumstances give rise to a reasonable belief that the petitioner is in control and possession of the premises where the alleged seizure had been effected.

In view of the aforesaid facts disclosing dominion and control of the petitioner over the premises wherefrom the alleged recovery of narcotic substance above commercial quantity was made and bearing in mind the statutory restrictions under Section 37 of the N. D. P. S. Act, we are not inclined in granting anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

(Manojit Mandal,J.)

(Joymalya Bagchi, J.)