

23.12.19

Sl. No.42

akd

[ALLOWED]

C. R. M. 12083 of 2019

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 16.12.2019 in connection with Sahebgunj Police Station Case No. 348 dated 12.07.2019 under Section 20(b)(ii)(c) of the NDPS Act. (NDPS Case No.55 of 2019)

And

In Re: **Nirmal Barman**

... .. Petitioner

Mr. Ayan Basu .. Advocate

Mr. Prabir Kumar Das .. Advocate

... .. for the petitioner

Mr. Saibal Bapuli .. Ld. Addl. Public Prosecutor

Mr. Arani Bhattacharyya .. Advocate

... .. for the State

Heard the learned advocate appearing for both the parties.

It is submitted on behalf of the petitioner that no narcotic substance was recovered from his possession and his complicity has transpired from the statement of co-accused before a police officer.

Learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that narcotic substance was sought to be delivered to the petitioner as appearing from the statement of co-accused. He further submits that investigation is in progress.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Accordingly, we

are inclined in granting anticipatory bail to the petitioner however, subject to strict conditions.

Accordingly, we direct that in the event of arrest, the accused/petitioner, namely ***Nirmal Barman***, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that he shall meet the Investigating Officer once in a week until further orders and shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)