

09.10.2020
SL No.31
Court No.23
(gc)
(Rejected)

CRM 5797 of 2020
CRAN 1 of 2020
(Old No: CRAN 4208 of 2020)

(Through Video Conference)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Sahebganj** P.S. Case No.**491/2018** dated **04.11.2018** under Section 20(b)(ii)(c) of the NDPS Act.

And

In the matter of: **Mofijul Haque**

....Petitioner.

Mr. Sabir Ahmed,
Mr. M.A. Nashar,
Mr. Shraman Sakar,
Mr. A. Saha

...for the Petitioner.

Mr. Sourav Ganguly,
Mr. Aditi Shankar Chatterjee

...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per Rules within one month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

Accordingly, the application being CRAN 1 of 2020 is disposed of.

The learned Counsel for the petitioner submits that there is a violation of Section 42 of the N.D.P.S. Act as it would be clearly evident from the First Information Report that the occurrence of the offence had taken place on 13th November, 2018 whereas it is alleged that the information has been received on 14th November, 2018 and it is further submitted that one police officer, namely, Ashwini Pada Roy was present on 14th November, 2018 and if

that be so the question of information received could not and does not arise.

The learned Counsel appearing on behalf of the State, however, opposes the prayer for anticipatory bail. It is submitted that 41kg of ganja has been recovered from the house of the petitioner. The apparent discrepancy on which reliance has been placed by the learned Counsel on behalf of the petitioner is the matter to be considered at the time of trial.

However, having regard to the fact that the in excess of the commercial quantity of narcotic substance has been recovered from the house of the petitioner is sufficient at this stage not to grant anticipatory bail to the petitioner having regard to the restriction imposed under Section 37 of the N.D.P.S. Act.

Accordingly, the application for anticipatory bail being CRM 5797 of 2020 is rejected.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)