

**CRM 8756 of 2020
(Via Video Conference)**

In re : An application for bail under Section 438 of the Code of Criminal Procedure in connection with Jalangi P.S. Case No. 102/2020 dated 06.03.2020 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

In the matter of : **Rahul Mondal @ Ahammed**
..... petitioner

Mr. Jisan Iqubal Hossain
....For the petitioner

Mr. P. K. Dutta
Mr. Pradipta Kumar Ganguly
.....For the State

The petitioner claims that merely on the basis of the statement of a person who has been arrested with contraband on his person, the State has proceeded against the petitioner. The petitioner apprehends immediate arrest.

According to the State, the person who has been arrested was only the mule and the masterminds were the petitioner and another by the name of Usman Gani. The State says that the petitioner and Usman Gani are involved in a business that sees considerable quantity of contraband being exported to Bangladesh in an illegal manner.

There is no independent material against the petitioner. It would be dangerous to allow the State to proceed against a person merely on the basis of a statement of a co-accused without any independent material against such person being garnered by the State. It is possible that the petitioner may be complicit. However, to establish the same, the State must

produce some *prima facie* evidence of the petitioner's involvement in the racket. The mere statement of a person who has been arrested with contraband on his person cannot be made the basis to proceed against a third party without any independent material being available against such third party.

CRM 8756 of 2020 is allowed by acceding to the prayer for anticipatory bail.

In the event of arrest, the petitioner should be released on furnishing security of Rs.10,000/- (Rupees ten thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer. The petitioner will also comply with the conditions laid down in Section 438(2) of the Code.

(Arijit Banerjee, J.)

(Sanjib Banerjee, J.)