

26.02.2021
Court No.28
Item No. 05
Krishnendu
Allowed

C.R.M. 153 of 2021

(Via video Conference)

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure ;

And

In re: **Fitu Mahaldar @ Fitu Mahalder**

.....Petitioner

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

....For the Petitioner

Mr. Sanjoy Bardhan

Ms. Masnisha Sharma

.....For the State

Apprehending arrest in connection with Suti Police Station Case No. 03 of 2020 dated 02.01.2020 under sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, , the petitioner has filed the present application.

The learned advocate for the petitioner submits that the petitioner has been implicated in the instant case on the basis of a statement of the co-accused and the police authorities have been vindictively trying to implicate him in the instant case. The learned advocate further submits that the petitioner would abide by any condition imposed by this Court and shall not disturb the smooth progress of the trial.

Mr. Bardhan, learned advocate for the State submits a report, which reflects that there are antecedents of the petitioner being involved in N.D.P.S. cases and other offences. He further submits that in the instant case, he has been named by a co-accused from whom 10 litres of codeine mixture and 300 gms. of heroin were recovered.

We have taken into account the materials available in the case diary as well as the report submitted by the learned advocate for the State and we are of the opinion that as the petitioner has been implicated on the basis of a statement of the co-accused, which is inadmissible in evidence, the rigors of section 37 of the N.D.P.S. Act are not attracted. As such, the prayer for anticipatory bail of the petitioner is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Fitu Mahaldar @ Fitu Mahalder**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and with a further condition that the petitioner shall meet with the Officer-in-Charge, Suti Police Station, once a week on and from 2nd March, 2021 until further orders.

This order of anticipatory bail will remain in force for a period of four weeks from date.

The application for anticipatory bail, being CRM No. 153 of 2021, is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)

