

21.04.2021

Item No.241

Court No.28

Avijit Mitra

**C.R.M. 944 of 2021
(Through video conference)**

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

And

In Re : **Faroj Sk @ Faroz Ali & anr.** petitioners

Mr. Mounick Ghosh

..... for the petitioners

Ms. Faria Hossain,
Ms. Purnima Ghosh

..... for the State

Apprehending arrest in connection with Special Case No.40 of 2016 (ref: S.I.'s S.L. No.54/15-16 dated 17.02.2016) under Sections 8(b)/18(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 the present application has been preferred.

The learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. The prosecution did not collect any separate sample of opium poppy plants from the land owned by the petitioners. Upon completion of investigation charge sheet has also been filed and as such custodial interrogation of the petitioners, who are aged about 96 years and 76 years respectively, is not warranted.

The learned advocate appearing for the State denies and disputes the contention of the petitioners and opposes their prayer for anticipatory bail.

Having heard the learned advocates and considering the materials available in the case diary, the nature of allegations, the

extent of complicity of the petitioners, who are aged about 96 years and 76 years respectively, we are of the opinion that Section 37 of the N.D.P.S. Act would not stand in the way towards exercise of discretion in their favour and as such their prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest, the petitioners namely **Faroj Sk @ Faroz Ali and Lokman Miya @ Lokman Mia** shall be released on bail upon furnishing a bond of Rs. 10,000/- each with two sureties of like amount, 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.

This order shall be valid for a period of eight weeks. In the meantime the petitioners shall appear before the learned Special Court, Malda under N.D.P.S. Act and pray for regular bail.

With the aforesaid observations, CRM 944 of 2021 is 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.)