

02.12.2021
Court No.32
Item No. 472
Krishnendu
Allowed

**C.R.M. 1442 of 2021
With
C.R.A.N. 1 of 2021
(Via Video Conference)**

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

And

In re: **Motiar Sekh @ Motiar Molla @ Sultan Sekh**
Petitioner

Mr. Sekhar Basu
Mr. Antarikhya Basu
Ms. Madhumita Basak

For the Petitioner

Mr. Sanjoy Bardhan
Ms. Manisha Sharma

For the State

Apprehending arrest in connection with Jibantala Police
Station Case No. 304 of 2020 dated 18.06.2020 under
Sections 20(c)/29 of the Narcotic Drugs and Psychotropic
Substances Act, 1985, the present application has been
preferred.

Mr. Basu, learned senior advocate appearing for the
petitioner submits that no contraband substance was
recovered from the possession of the petitioner and his name
has transpired on the basis of the statement of a co-accused
person. Upon completion of investigation, charge sheet has
also been submitted and as such custodial interrogation of the
petitioner is not necessary.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner was implicated in a criminal proceeding earlier. However, he has been acquitted in that case. The charge sheet was submitted on 12th December, 2020 showing the petitioner as an absconder.

Mr. Basu, in reply, submits that the warrant of arrest has not been executed and he has not been declared as a 'proclaimed offender'.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary and as no contraband substance, above commercial quantity, has been recovered from the petitioner and since his name has transpired on the basis of the statement of a co-accused person, we are of the opinion that the rigours of section 37 of the N.D.P.S. Act are not attracted and as such the petitioner's prayer for anticipatory bail is allowed.

Accordingly, in the event of arrest the petitioner, namely, **Motiar Sekh @ Motiar Molla @ Sultan Sekh**, 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and with further directions that the petitioner shall reside within the jurisdiction of Jibantala Police Station and shall attend the learned trial court on all the dates, as specified for hearing and shall not intimidate the

witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

With the aforesaid observations, the application for anticipatory bail, being CRM No. 1442 of 2021 and the connected application, being C.R.A.N. 1 of 2021, are disposed of.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)