

09.12.2021
Court No.32
Item No. 483
Krishnendu
Allowed

**C.R.M. 1531 of 2021
(Via Video Conference)**

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

And

In re: **Rabbani Sarkar @ Mukul**

Petitioner

Mr. Debnath Banerjee
Mr. Subrata Saha
Mr. Abhik Biswas

For the Petitioner

Mr. Sanjoy Bardhan
Ms.Manisha Sharma

For the State

Apprehending arrest in connection with Kumarganj Police Station Case No. 211 of 2017 dated 01.11.2017 under Sections 21/22/23 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the present application has been preferred.

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

The learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the seizure list and the statement of a co-accused person.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that there has been no recovery of contraband substance above commercial quantity from the possession of the petitioner and that his name has transpired on the basis of the statement of a co-accused person. As such the rigours of section 37 of the N.D.P.S. Act are not attracted. In view thereof, custodial interrogation of the petitioner is not warranted, more so when, upon completion of investigation, charge sheet has been submitted.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Rabbani Sarkar @ Mukul**, 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 attend the learned court below 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. 1531 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.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)