

09.12.2021
Court No.32
Item No. 484
Krishnendu
Allowed

**C.R.M. 1532 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. Ranobir Roy Chowdhury

Mr. Mainak Gupta

For the State

Apprehending arrest in connection with Kumarganj Police
Station Case No. 246 of 2017 dated 30.12.2017 under
Sections 21/22/23 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. 1532 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)