

28.07.2021
Item no.23.
Court No.32.
AB
(Allowed)

(Via Video Conference)

CRM No. 1535 of 2021

In Re: An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure filed on 05.02.2021 in connection with Kaliachak Police Station Case No.697 of 2019 Dated 27.10.2019 under Sections 21 (c)/29 of the NDPS Act

And

In the matter of : Abu Kalam @ Abul Kalam Azad & Anr.

.....Petitioners.

Mr. Mritunjoy Chatterjee,
Mr. G. N. Imrohi,
Mr. D. Majumdarfor the Petitioners.

Mr. Binay Kr. Panda,
Ms. Pushpita Saha,
Mr. Subham Bhakatfor the State.

The allegation against the petitioners is under Sections 21 (C)/29 of the NDPS Act, 1985. It is submitted on behalf of the petitioners that no recovery of contraband substance was made from them and their names have transpired from the statement of a co-accused from whom the contraband article was recovered.

The State refers to the case diary and submits that recovery of contraband substance of more than commercial quantity was made from a co-accused and the petitioners fled from the spot.

We have considered the material on record. It transpires that no recovery of contraband article was made from the possession of the petitioners and their names have come to light from the statement of a co-accused before a police officer, which is inadmissible in evidence. Therefore, we are inclined to hold that the petitioners are able to rebut the statutory restrictions under Section 37 of the NDPS Act and their immediate custodial interrogation is not necessary.

We are also told that charge sheet has been submitted upon completion of investigation.

Accordingly, in the event of arrest, the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure until further orders.

The application for anticipatory bail being C.R.M. No.1535 of 2021 is, thus, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)

