

CRM 1664 of 2021

In re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Hili PS Case No. 232/15 dated 07.11.2015 under Sections 27A/28 and 29 of the Narcotic Drugs and Psychotropic Substances Act.

In the matter of : **Bechan Rabi Das**

..... petitioner

**Mr. Rajdeep Majumder
Mr. Moyukh Mukherjee**

.....For the petitioner

**Mr. Sanjoy Bardhan
Ms. Manisha Sharma
Mr. Palash Chandra Majhi**

.....For the State

The petitioner is apprehending arrest in connection with Hili PS Case No. 232/15 dated 07.11.2015 under Sections 27A/28 and 29 of the Narcotic Drugs and Psychotropic Substances Act now pending in the Court of Additional District Judge-III- cum- Learned Special Judge, NDPS Act, Dakshin Dinajpur at Balurghat.

Charge-sheet was submitted vide C.S. No. 133 of 2016 dated 23.05.2016 under Sections 27A/28 and 29 of the Narcotic Drugs and Psychotropic Substances Act and that the accused petitioner was absconding.

Mr. Rajdeep Majumder, learned counsel for the petitioner brings our notice to the Order No. 27 dated 24.09.2020 passed in Special Case No. 27/2015 to submit that the petitioner is not an absconder. It would appear that as many as nine witnesses have been examined and cross-examined and material documents

including the CFSL report collected during the investigation have also been marked and admitted on evidence.

However, the learned Special Judge observed that when the charge-sheet was filed against the three accused persons on 03.06.2016, I.O. sought for issuance of warrant of arrest against the absconder accused-the present petitioner. Mr. Majumder submits that since warrant of arrest was not issued against him, the petitioner is not a proclaimed absconder.

Before us, the petitioner has not annexed up-to-date order-sheet with regard to the status whereas as many as nine witnesses were examined and cross-examined.

Mr. Sanjoy Bardhan, learned counsel for the State has invited our attention to the charge-sheet and the case diary and submits that it is true that though 3000 bottles of phensydyl were seized from the possession of the other two co-accused person, but pursuant to their statement made, they have purchased the said 3000 bottles of phensydyl from the present petitioner.

It would now appear that warrant of arrest and proclaimed attachment against the petitioner was issued on 19.01.2021 and the proclamation order was executed on 06.02.2021 in the conspicuous place at the residence of the accused person which would be reflected from the execution proceeding.

Therefore, there has been compliance insofar as publication of the proclamation. In consideration of the nature and gravity of the offence and sentence to be imposed in the event of conviction, we decline to admit the petitioner on anticipatory bail.

Accordingly, the application being CRM 1664 of 2021 is dismissed.

Learned Special Judge is directed to take expeditious hearing for trial.

(Saugata Bhattacharyya, J.)

(Shivakant Prasad, J.)