

31.05.2021
Court No.28
Item No. 33
Krishnendu
ALLOWED

C.R.M. 1799 of 2021

(Via video Conference)

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

And

In re: Jiyaul Hoque @ Jiaul Hoque

.....Petitioner

Mr. Kallol Mondal

Mr. Musharraf Alam Sk.

....For the Petitioner

Mr. Saswata Gopal Mukherjee

Mr. Ranabir Roy Chowdhury

.....For the State

Apprehending arrest in connection with Kaliachak Police Station Case No. 544 of 2020 dated 11.07.2020 under section 27 of Drugs & Cosmetics Act and read with section 14(a) (b)/14(c) of the Foreigners Act, the present application has been preferred.

Mr. Mondal, learned advocate for the petitioner submits that the petitioner has been falsely implicated. His name has transpired on the basis of a statement made by a co-accused person and there had also been no recovery of contraband substance from the petitioner. He further submits that upon completion of investigation, charge sheet has also been filed and as such custodial interrogation/detention is not warranted in the facts and circumstances of the case.

Mr. Roy Chowdhury, learned advocate for the State opposes the petitioner's prayer for anticipatory bail and submits that there are incriminating materials on record against the

petitioner and in view thereof, custodial interrogation/detention of the petitioner is necessary.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary and as no contraband substance was recovered from the possession of the petitioner and his name transpired on the basis of the statement of a co-accused person before the police officer, which is inadmissible in evidence, we are of the opinion that the rigors of section 37 of the N.D.P.S. Act are not attracted. As such, his prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Jiyaul Hoque @ Jiaul Hoque**, 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 and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 .

The present order shall be valid for a period of six weeks from date. In the meantime, the petitioner shall appear before the learned Trial Court and pray for regular bail.

The application for anticipatory bail, being CRM No. 1799 of 2021, is, thus, disposed of.

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

(Shampa Sarkar, J.)

(Tapabrata Chakraborty, J.)

