

31.05.2021

Court No.28

rpan /45

C.R.M. 2419 of 2021

(Via Video Conference)

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

And

In Re : **Jahid** *alias* **Zahidur Rahaman**

- Petitioner.

Mr. Kaushik Paul

... for the petitioner.

Mr. Ranabir Roy Chowdhury,

Mr. Mainak Gupta

... for the State.

Apprehending arrest in connection with Islampur P.S. Case No.378 of 2018 dated 04.07.2018 under Sections 21(c)/23(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner has filed the present application.

The learned advocate for the petitioner submits that the petitioner has been falsely implicated. There has been no recovery of contraband substance from the petitioner and his name has transpired on the basis of the statement of a co-accused person. Upon completion of investigation, charge sheet has also been filed and as such custodial interrogation/detention of the petitioner is not warranted in the facts and circumstances of the case.

Mr. Roy Chowdhury, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary. He has, however, not been able to dispute that there had been no recovery of contraband substance from the possession of the petitioner.

Having heard the learned advocates and considering the materials in the case diary, the fact that the name of the petitioner has transpired on the basis of a statement of a co-accused person before a police officer, which is inadmissible evidence and since there had been no recovery of contraband substance from the possession of the petitioner, 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, **Jahid alias Zahidur Rahaman**, shall be released on bail upon furnishing a bond of ₹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 four weeks from date. In the meantime, the petitioner shall appear before the learned Judge, Special Court under the NDPS Act, Raiganj, Uttar Dinajpur and pray for regular bail.

The application for anticipatory bail, being CRM No. 2419 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.)