

23.09.2021

CRM 2575 of 2021

Court No.28
Item No.163
(Allowed)

(Via Video Conference)

Akd
&
As

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Special Case No. 13 of 2016 (ref:- S.I.'s S.L. no. 93/15-16 dated 11.01.2016) of Manikchak Excise Circle, Malda, punishable under Sections 18(c)/8(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985;

And

In the matter of : **Ramesh Mandal @ Ramendra Nath Sarkar & Anr.**
...Petitioners.

Mr. Mounick Ghosh.

...For the Petitioners.

**Mr. Sudip Ghosh,
Mr. Bitasok Banerjee,
Mr. A. K. Datta.**

...For the State.

Apprehending arrest in connection with Special Case No. 13 of 2016 (ref:- S.I.'s S.L. no. 93/15-16 dated 11.01.2016) of Manikchak Excise Circle, Malda, punishable under Sections 18(c)/8(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioners have filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

It is submitted by the learned Advocate for the petitioners, on instruction, that the petitioner no. 1 is not pressing his application for anticipatory bail.

Hence, the application for anticipatory bail is treated to be dismissed as not pressed in so far as the petitioner no. 1, Ramesh Mandal @ Ramendra Nath Sarkar, is concerned.

It is ascertained from the submission of the learned Advocate for the petitioner that the case is initiated against the petitioner along with ten other accused persons who were allegedly cultivating poppy in different Dag numbers comprising 2.26 acres of land. The Investigating Officer ascertained ten different dag numbers of the accused persons. However, khatian numbers in respect of the plots, where poppy cultivation was allegedly made, were collected during

investigation. Furthermore, each dag number comprised of large tract of land.

Though the learned Public Prosecutor in-Charge has raised objection against the prayer for anticipatory bail but we have, on perusal of the case diary, found that even no sample was taken from the alleged dag numbers to show prima facie poppy cultivation in the said land.

In view of such conspectus, the petitioner no. 2 is entitled to get benefit of Section 438 of the Code of Criminal Procedure.

Accordingly, we direct that in the event of arrest the petitioner no. 2, Tarosh Mandal @ Taresh Chandra Mandal 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 learned Judge, Special Court under Narcotic Drugs and Psychotropic Substances Act, Malda and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in accordance with law without any further reference to this Court.

The application for anticipatory bail being CRM 2575 of 2021 is, thus **disposed of**.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)