

CRM No.2896 of 2021

Via video conference

16.12.21

(S.R.)

Sl.551

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Special Case No.26 of 2016 and S.I's SL. No.23/2015-2016** dated 14/01/2016, Kaliachak Excise Circle, Malda Under Section 18(C) of the NDPS Act;

And

In re: Nibaran Ghosh

... petitioner.

Mr. Angshuman Chakrabroty

... for the petitioner.

Mr. Sanjay Bardhan

Mr. Palash Chandra Majhi

...for the State.

Heard the learned advocates appearing for the respective parties.

Records reveal that by an earlier order dated 22.09.2021, the investigating officer was directed to file a report '*as to whether or not, the petitioner is in any manner connected with the land in question and if so, the details thereof*' and interim order was passed to the effect that the petitioner shall not be arrested.

Pursuant to such direction, Mr. Bardhan, learned advocate appearing for the State has produced the case diary as well as a report of the officer-in-charge of Excise Sadar R.P.U. Malda. Let the said report, as produced, be kept on record.

In the charge sheet the name of one Gadadhar Ghosh features but in the report, it has *inter alia* been stated that the concerned land is situated within Sahabajpur Gram Panchayet and that '*there is no one in the name of Nibaran Ghosh, S/o- Gadadhar Ghosh but Nibaran Ghosh, S/o- Bhakti Ghosh is a resident of the said Gram Panchayet*'. The petitioner herein is not the son of Gadadhar Ghosh.

Thus, *prima facie*, it appears that the petitioner is not involved in the present case and there are no incriminating materials against him.

In view thereof, we are of the opinion that custodial interrogation of the petitioner is not necessary.

Accordingly, we direct that in the event of arrest the petitioner will 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 application for anticipatory bail being CRM No.2896 of 2021 is, accordingly, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)