

09.12.2021
Item no.492
Court No.32
Avijit Mitra

C.R.M. 3766 of 2021

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

And

In Re : Rahim Sk.

.... petitioner

Ms. Minoti Gomes,
Mr. Jisan Iqbal Hossain

....for the petitioner

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Majhi

..... for the State

Apprehending arrest in connection with Bhagwangola Police Station Case No.514 of 2020 dated 30.10.2020 under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the present application has been preferred.

Ms. Gomes, learned advocate appearing for the petitioner submits that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioner. Though his name did not feature in the statements of the witnesses, he has been surprisingly chargesheeted.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and submits that he has also been arraigned in another criminal case and in view of such antecedent he is not entitled to the relief, as prayed for.

In reply, Ms. Gomes submits that the other proceeding in which the petitioner was arraigned, he has already been granted

anticipatory bail by a Coordinate Bench of this Court on 25th November, 2021 passed in CRM No.5546 of 2021.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioner and his name also does not feature in the statement of the witnesses, as recorded under Section 161 of the Code and as such, *prima facie*, he has been roped in on the basis of mere suspicion. In view thereof, we are of the opinion the rigors of Section 37 of the NDPS Act are not attracted and as such, custodial interrogation is not necessary.

Accordingly, we direct that in the event of arrest, the petitioner, namely, **Rahim Sk.**, shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten thousand only) with two sureties of like amount each, 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 with further condition that the petitioner shall attend the learned trial court on all the dates, as specified for hearing.

The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's anticipatory bail without any further reference to this Court.

The application for anticipatory bail being C.R.M.3766 of 2021 is 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.)