

CRM No.4322 of 2021

Via video conference

02.12.21

(S.R.)

Sl.125

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Hili** Police Station Case No.18 of 2021 dated 07/02/2021 under Sections 21(C)/22(C)/23(C)/27A of the NDPS Act;

And

In re: Kanika Kundu

... petitioner.

Mr. Raghunath Adhikary

Ms. Tanaya Banerjee

... for the petitioner.

Mr. Ranabir Roy Chowdhury

Mr. Sandip Chakraborty

...for the State.

The present anticipatory bail application is filed by Kanika Kundu.

The learned lawyer for the petitioner submitted that the present petitioner is the owner of the vehicle carrying contraband articles. Her name transpired from the statements of the driver. She is falsely implicated in this case. Therefore, the learned lawyer submitted that anticipatory bail should be allowed more so when, she is a diabetic patient.

Per contra, the learned lawyer for the State submitted that there are materials against the present petitioner. She is the owner of the vehicle. It comes out from the statements of the driver that on her instruction he was carrying contraband articles.

We have perused the case diary and heard the rival submissions. We noticed that two statements of the driver of the vehicle, namely, Sanjoy Rakshit @ Chattu, were recorded by the sub-inspector, Sukumar Sil on 10/03/2021. In one statement, the present petitioner is implicated whereas the other statement is silent about the name of the petitioner.

In this circumstance, *prima facie*, the involvement of the present

petitioner in the alleged crime is doubtful. Therefore, we are of the opinion that the rigours of Section 37 of the NDPS Act are not applicable in this case. The present petitioner's role, *prima facie*, appears to be doubtful and she should not be detained in custody for interrogation.

Accordingly, we are inclined to exercise our discretion in favour of the petitioner. The present application filed under Section 438 of the Criminal Procedure Code is allowed on 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.

It is further directed that the petitioner shall not intimidate the witnesses 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 his bail without any further reference to this Court.

The application for anticipatory bail being CRM No.4322 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.)