

15. 17.09.2021

Ct.32

Tanmoy

Allowed

C.R.M. 4385 of 2021

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on **28/06/2021** in connection with N.D.P.S. Case No. 15/2021 arising out of **Kaliachak Police Station Case No. 111/2021** dated **31/01/2021** under Sections **22(c)/29** of N.D.P.S. Act, 1985.

And

In the matter of: - **Hajikul Sk @ Hajikul Islam & Anr.**

...petitioners.

Mr. N. Ghosh,
Mr. Tapodip Gupta

...for the petitioners.

Ms. Zareen N. Khan,
Ms. Sreeparna Das

...for the State.

The seizure list would show that no recovery of contraband item was made from the possession of the petitioners. The petitioners' name transpired from statements made by co-accused persons from whom recovery was made. In view of there being no recovery from the petitioners, the statutory restriction in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 would not be attracted.

We have seen the material in the Case Diary. The material *prima facie* does not indicate implication of the petitioners in the alleged offence.

On an overall assessment of the material on record and the extent of possible complicity of the petitioners in the alleged offence, although charge-sheet is yet to be submitted, we are of the view that immediate custodial interrogation of the petitioners

is not necessary so long as they co-operate with the Investigating Officer.

Accordingly, in the event of arrest, the petitioners, *viz.*, **1. Hajikul Sk @ Hajikul Islam, 2. Raikul Sk @ Rafikul Sk @ Rafikul Khan** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

In case the petitioners fail to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application being C.R.M. 4385 of 2021 is, accordingly, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)