

23.12.2021

Court No.32
rpan/521

C.R.M. 4951 of 2021

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

And

In re: **Kabil Sk. & Others**

- Petitioners

Ms. Minoti Gomes,
Mr. Mazahar Hossain Chowdhury
... for the Petitioners.

Mr. Saibal Bapuli,
Mr. Soumik Ganguly
... for the State.

Apprehending arrest in connection with Baishnabnagar
Police Station Case No.95 of 2016 dated 16.02.2016 under Section
18(b) of the Narcotic Drugs and Psychotropic Substances Act,
1985, the petitioners have filed the present application.

Ms. Gomes, learned advocate appearing for the petitioners
submits that the petitioner no.1, the petitioner no.2 and the
petitioner no.3 are aged about 53 years, 68 years and 76 years
respectively and there is no likelihood that they would flee from
justice.

She further submits that the prosecution alleges cultivation
of poppy plants over large tracks of land and the petitioners have
been roped in alleging that they are the owners of certain plots.
There had been no quantification of the contraband and in the
said conspectus, the petitioners may be granted anticipatory bail.

Mr. Ganguly, learned advocate appearing for the State opposes the petitioners' prayer and places reliance upon the statements of the witnesses, as recorded under section 161 of the Code of Criminal Procedure. He further submits that the petitioners had been absconding for a substantial period of time. Answering a query of this Court, he, however, submits that no proclamation has been issued.

Upon hearing the learned advocates appearing for the respective parties and considering the materials in the case diary, we are of the opinion that the rigors of Section 37 of the NDPS Act are not attracted. The petitioners are all aged persons and *prima facie*, there is no likelihood that they would flee from justice or delay the trial by abscondance. Upon completion of investigation charge sheet has also been submitted. In view thereof, we are of the opinion that custodial interrogation of the petitioners is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioners, namely, **Kabil Sk.**, **Seikh Entaj @ Enataz Sekh** and **Saharu Sk.** 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further condition that they shall not leave the jurisdiction of Kaliachak Police Station, save and except for attending the Trial Court on the dates specified for hearing.

It is further directed that the petitioners shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

In the event the petitioners fail to comply with the aforesaid directions, without any justifiable cause, the learned court below shall be at liberty to cancel their bail, in accordance with law, without further reference to this Court.

The application for anticipatory bail, being CRM 4951 of 2021 is, thus, 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)