

22.12.2021

Serial no. 10

Dd

(Through Video Conference)

CRM 5315 of 2021

In re : An Application for **anticipatory bail** under Section **438** of the Code of Criminal Procedure in connection with **Hili** Police Station Case No. **146** of **2021** dated **19.07.2021** under Sections **21(C)/22(C)/23(C)/27A** of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : **Ariful Mandal & Anr.**

... Petitioners

Ms. Busra Khatun, Advocate

... ... For the Petitioners

Mr. Ranabir Ray, Chowdhury,

Mr. Mainak Gupta, Advocates

... ...For the State

Report submitted pursuant to the order dated December 1, 2021 on behalf of the police be taken on record. The report does not demonstrate any nexus between the petitioners and the other co-accused.

Learned advocate appearing for the petitioners submits that no contraband was seized from the possession of the petitioners. The petitioners were sought to be falsely implicated on the basis of the statements of the co-accused. On the basis of the submission, report was called for by the order dated December 1, 2021.

Now it transpires from such report that the police are unable to demonstrate any nexus between the petitioners and the co-accused save and except the statement of the co-accused.

In such circumstances, considering the fact that no contraband was seized from the possession of the petitioners

and considering the fact that since the police are yet to establish any nexus between the co-accused and the petitioners at this stage we are of the view that the petitioners are able to rebut the presumption under Section 37 of the NDPS Act. Consequently, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear before the Court below and pray for regular bail within a period of four weeks from date and on further condition that the petitioners shall meet the Investigation Officer once in a week till completion of investigation.

Prayer for anticipatory bail is **allowed**.

CRM 5315 of 2021 is **disposed of**.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)