

10.12.2021

Court No.32
rpan / 174

CRM 5421 of 2021

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

And

In Re : **Milan Roy**

- Petitioner

Mr. Sayan De,

Mr. Kaustuv Bagchi,

Mr. Sayan Kanjilal

... for the Petitioner.

Mr. T. D. Nandy,

Mr. Antarikhya Basu

... for the State.

Apprehending arrest in connection with Balurghat Police Station Case No.371 of 2018 dated 01.11.2018 under Sections 21(C)/22(C)/23(C)/25/27(A)/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner has filed the present application.

Mr. Kanjilal, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. His name does not feature in the FIR and has transpired on the basis of co-accused statement. Upon completion of investigation charge sheet has also been submitted and as such, custodial interrogation is not warranted. He further submits that one Hero Das whose name was there in the FIR has also been granted bail by a coordinate Bench of this Court on 9th December, 2019.

Mr. Basu, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary and submits that the petitioner was

involved in another criminal case. In view thereof, the petitioner is not entitled to the relief as prayed for.

In reply, Mr. Kanjilal submits that in the other criminal case the petitioner has already been granted bail by an order dated 29th September, 2020 passed in CRM 7261 of 2020.

Having heard the learned advocates appearing for the respective parties and considering the materials in the case diary, it appears that no contraband substance above commercial quantity was recovered from the possession of the petitioner and his name has transpired on the basis of a co-accused statement. In view thereof, the rigours of Section 37 of the NDPS Act are not attracted and as such, custodial interrogation is not necessary.

Accordingly, we allow this application and direct that in the event of arrest the petitioner, namely, **Milan Roy** shall be released on bail upon 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 attend the learned court below on the dates specified for hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever.

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

The application for anticipatory bail, being CRM 5421 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.)