

14.12.2021

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Allowed

**C.R.M. 5658 of 2021
(via video conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with NCB Crime No. 23 of 2020 dated 18.12.2020 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Bijan Mondal @ Bizon Mondal & Anr. petitioners

Mr. Koustav Bagchi
Mr. Amanul Islam
Mr. Sourav Mukherjee
Mr. Debayan Ghosh

.....for the petitioners

Mr. Y. J. Dastoor, learned A.S.G.
Mr. Phiroze Edulji
Mr. Rajesh Kumar Shah

....for the NCB

It is submitted by the learned Counsel appearing for the petitioners that no narcotic substance was recovered from the possession of the petitioners and they have been falsely implicated in the instant case.

Learned Additional Solicitor General opposes prayer for anticipatory bail and submits petitioners were dealing with narcotic substance along with one Intaj Biswas.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioners. Their complicity transpired from the statement of the co-accused which is inadmissible in evidence. Call detail records collected during investigation do not disclose communication

between the petitioners and the co-accused in or about the time when the alleged seizure had taken place. Under such circumstances, we are of the opinion that the petitioners have been able to rebut the statutory restrictions under Section 37 of the NDPS Act and they may be granted anticipatory bail.

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 conditions that the petitioners shall appear before the court below and pray for regular bail within a period of four weeks from date.

This application for anticipatory bail is, thus, allowed.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)