

21.12.2021
Sl. No.15
akd
[ALLOWED]

C. R. M. 5962 of 2021 [via video conferencing]

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 02.09.2021 in connection with Berhampore Police Station Case No. 924 of 2021 dated 15.08.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: **Mekail Sk. @ Saloyar Sk.**

... .. Petitioner

Mr. Soumyajit Das Mahapatra
Mr. Jisan Iqubal Hossain

... .. for the petitioner

Mr. Tapandeb Nandy
Mr. Antarikhya Basu

... .. for the State

Report is placed on record.

It is submitted on behalf of the petitioner that no narcotic substance was recovered from his possession.

Learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that the petitioner has criminal antecedents. He was dealing in narcotic substance above commercial quantity.

We have considered the materials on record. Other criminal cases registered against the petitioner do not relate to dealing in narcotics. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Hence, we are inclined in granting anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the accused/petitioner, namely **Mekail Sk. @ Saloyar Sk.**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)