

16.12.2021

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Allowed

**C.R.M. 6193 of 2021
(via video conference)**

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Berhampore Police Station Case No. 1191 of 2020 dated 17.11.2020 under Sections 20(c)/29 of the NDPS Act.

And

In Re : Md. Ubaidullah @ Mahammad Ubaidullah petitioner

Mr. Parthapratim Das

.....for the petitioner

Mr. Tapandeb Nandy

Mr. Antarikhya Basu

....for the State

It is submitted by the learned Counsel appearing for the petitioner that no narcotic substance was recovered from him. Petitioner prays for anticipatory bail.

Learned Counsel appearing for the State opposes prayer for anticipatory bail and submits petitioner was dealing in narcotic substance with co-accused persons.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. His complicity transpired from the statement of the co-accused before 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 and he may be granted anticipatory bail.

Accordingly, we direct that in the event of arrest the petitioner shall 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 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 petitioner 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.)