

4 29.11.2021
(AD) Court No.29

(Rejected)

**C.R.M. 6438 of 2021
(Via Video Conference)**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 24.09.2021 in connection with **NCB** Crime No. **68/NCB/KOL/2021** dated **10/08/2021** under Sections **8(c)** read with Section **21(c)** of the NDPS Act.

And

In the matter of: - Mehebul Mallick @ Mahebul

...petitioner.

Mr. Amanul Islam
Mr. Sourav Mukherjee

...for the petitioner.

Mr. Y.J. Dastoor, Ld. ASG
Mr. Phiroze Edulji
Ms. Moumita Monda,

...for the Narcotics Control Bureau.

Petitioner seeks anticipatory bail.

The application is taken up for consideration subsequent to the order dated November 22, 2021 in the second call.

On September 28, 2021, an interim order was passed in favour of the petitioner directing that the petitioner should not be arrested in connection with the case without prior leave of the Court.

Learned Additional Solicitor General submits that the petitioner herein is the nephew of the person arrested. From the person arrested, commercial quantity of narcotics was seized. The Narcotics Control Bureau also looked into the call details recording of the petitioner and the person arrested. There were several calls between the two persons. He submits that the petitioner appeared before the Narcotics Control Bureau and denied the relationship of uncle and nephew between himself

and the person arrested.

Considering the materials in the case diary and considering the fact that narcotics of commercial quantity was seized from the possession of the person arrested and considering the relationship between the petitioner and the person arrested and considering the call details recording between the petitioner and the uncle and considering the fact that even if it is presumed for the sake of argument that the petitioner and the person arrested are not nephew and uncle as claimed by the petitioner then also there is an aspect of call details recording between the petitioner and the person arrested, we are of the view that the petitioner is unable to overcome the restrictions imposed under Section 37 of the NDPS Act, 1985. Consequently, we are unable to grant anticipatory bail to the petitioner.

Interim order stands vacated.

Accordingly, the prayer for anticipatory bail, C.R.M. 6438 of 2021, is rejected.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)