

SL. 43
10.11. 2021.
rc
(Reject)

CRM 6929 of 2021

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on October 03, 2021 in connection with Krishnaganj Police Station Case No. 209 of 2021 dated September 02, 2021 under Section 20(C) of the Narcotic Drugs and Psychotropic Substance Act, 1985.

In the matter of : Lakshman Halder

... petitioner

Mr. Souvik Mitter
Mr. Litan Maitra
Ms. Rajnandini Das

..... for the petitioner.

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

..... for the State.

The Advocate-on-Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

Apprehending arrest in connection with Krishnaganj Police Station Case No. 209 of 2021 dated September 02, 2021 under Section 20(C) of the Narcotic Drugs and Psychotropic Substance Act, 1985, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

Learned counsel appearing on behalf of the petitioner submits that contraband above the commercial quantity was not recovered from his exclusive possession and therefore he is entitled to the benefit under Section 438 of the Code of

Criminal Procedure. He further submits that the house from where recovery was made, was an abandoned house and even the motor cycle which was confiscated at the spot does not belong to the petitioner.

Learned counsel appearing on behalf of the State vehemently opposes the prayer for anticipatory bail. He submits that the raid was conducted in the house where the petitioner resides/ occupies and such seizure was made in presence of an independent witness along with other witnesses. Although the motor cycle seized from the spot does not appear to be owned by the petitioner but certainly the recovery of the contravened was made from the house which was in occupation of the petitioner.

Having heard the learned counsels appearing for the parties and on perusal of the materials available in the Case Diary the contraband above the commercial quantity was recovered from the house which according to the witnesses belong to the petitioner. Though the petitioner is very much vocal that the address shown in the cause title of the instant petition and the address of the house from where the contraband was recovered are different yet according to the statement of the several witnesses including the member of the Gram Panchayet the said house is occupied by the petitioner. It is a matter of trial whether the petitioner actually resides or owned the said house from where the recovery was made. Since the constructive position is established we do not

find that the petitioner has been able to make out the case to take exception of Section 37 of the Narcotic Drugs and Psychotropic Substance Act, 1985. Hence, the prayer for anticipatory bail of the petitioner is rejected.

The application for anticipatory bail being **CRM 6929 of 2021** is thus **rejected**.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)