

11.11.2021

CRM 6949 of 2021

Court No.28
Item No.32
(ALLOWED)

Ab

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on 26.10.2021 in connection with Dhubulia Police Station Case No. 183 of 2021 dated 09.06.2021 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act;

And

In the matter of : **Prakash Sarkar alias Gobinda.**

...Petitioner.

Mr. Kushal Kumar Mukherjee.

...For the Petitioner.

**Mr. Swapan Banerjee,
Ms. Sayanti Santra.**

... 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 Dhubulia Police Station Case No. 183 of 2021 dated 09.06.2021 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, the petitioner has filed the instant application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

Learned Advocate for the petitioner submits that the contraband above the commercial quantity was never recovered from the exclusive and joint possession of the petitioner and he has been implicated in connection with the instant case on the basis of the statement of the co-accused.

Learned Advocate for the State opposes the prayer for anticipatory bail and submits that during investigation of a co-accused, the name of the petitioner was divulged.

After hearing the respective Counsels and on perusal of the materials on record it transpires that the petitioner has been implicated in connection with the aforesaid case solely on the basis of the statement of the co-accused. Since the statement made before the police authority is not admissible in evidence under Section 25 of the Evidence Act, we, thus, feel that the custodial interrogation of the petitioner is not required. Furthermore, the rigor of Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted in this case.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/-, with two sureties of like amount each, one of whom must be local, 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 meet the investigating officer once in a fortnight until further orders.

The application for anticipatory bail being CRM 6949 of 2021 is, thus, **allowed**.

(Harish Tandon, J)

(Rabindranath Samanta, J.)