

04.03.2021

Court No.28

rpan/ 27

C.R.M. 10748 of 2020
(Via video Conference)

In Re:- An application for anticipatory bail under section 438
of the Code of Criminal Procedure ;

And

In re: **Saiful Gazi @ Md. Saiful Gazi & Others**

.....Petitioners.

Mr. Mazhar Hussain Chowdhury,

Ms. Arina Bhattacharjee,

Mr. Suman Karmakar

....For the Petitioners

Mr. Rudradipta Nandy

....For the State

Apprehending arrest in connection with Basirhat Police Station Case No. 917 of 2020 dated 04.08.2020 under sections 21/22/23 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 12(1)(a) of the Passport Act, 1967, the petitioners have filed the present application.

The learned advocate for the petitioners submits that the petitioners have been implicated in the instant case on the basis of the statement of the principal accused from whom seizure has been effected and he further adds that investigation of the case has already been concluded and the charge-sheet has also been filed before the learned Special Court.

Mr. Nandy, learned advocate for the State opposes the prayer and submits that 160 bottles of contraband were recovered along with certain amount of cash by the BSF authorities. However, he is unable to controvert the petitioners'

contention that they have been implicated on the basis of the statement of the principal accused.

We have taken into account the materials available in the case diary and we are of the opinion that as no recovery has been effected from the possession of the present petitioners and they have been implicated on the basis of the statement of the co-accused, the provisions of Section 37 of the NDPS Act are not attracted and as such, they may be extended the privilege of anticipatory bail. As such, prayer for anticipatory bail of the petitioners is allowed.

Accordingly, we direct that in the event of arrest the petitioners, namely, **1. Saiful Gazi @ Md.Saiful Gazi 2. Jabbar Ali @ Abdul Jubbar Sardar** and **3. Aahad Ali @ Ahad Ali Mondal**, shall be released on bail upon furnishing a bond of ₹10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973

This order of anticipatory bail will remain in force for a period of four weeks from date. The petitioners would surrender before the learned Special Court and prefer regular bail within the said period.

The application for anticipatory bail, being CRM No. 10748 of 2020, is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)