

04.03.2021
Item no.44
Court No.28
Avijit Mitra

C.R.M. 10783 of 2020 (through video conference)

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with Kaliachak Police Station Case No.452 of 2020 dated 11.06.2020 under Sections 21(C)/29 of the Narcotics Drugs and Psychotropic Substances Act;
And

In Re : Samirul Hoque @ Md. Samir Sk. @ Samir

.... Petitioner

Ms. Minoti Gomes

...for the petitioner

Mr. Sanjoy Bardhan,

Ms. Manisha Sharma

...for the State

Ms. Gomes, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in the alleged offence on the basis of a statement of a co-accused and no recovery was effected from the possession of the present petitioner, who has been implicated in connection with the instant case.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and submits that 257 grams of brown sugar were recovered from three co-accused persons and the present petitioner's name transpired during the course of investigation on the basis of statement of the said co-accused.

We have perused the case diary which includes the seizure list and we also find that on conclusion of investigation the chargesheet has already been submitted. Having regard to the fact that the petitioner's name

transpired from the statement of a co-accused which is inadmissible in evidence, we are of the opinion that the petitioner has been able to rebut the rigors of Section 37 of the N.D.P.S. Act and as such he is entitled to the relief as prayed for. Accordingly the prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Samirul Hoque @ Md. Samir Sk. @ Samir**, shall be released on anticipatory bail upon furnishing a bond of Rs.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 within which the petitioner would surrender before the learned Court and pray for regular bail.

Accordingly, the application being C.R.M. No. 10783 of 2020 is 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.)

