

C.R.M. 11220 of 2020

Re : An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Gangarampur Police Station Case No. 413/2020 dated 21.11.2020 under sections 21(c)/22(c)/23(c)/25/27A/28/29 of the NDPS Act, 1985.

**In re : Rasidur Rahaman @ Miah & Ors.
... Petitioners.**

Mr. Mazhar Hossain Chowdhury,
Mr. Suman Karmakar,
Ms. Arina Bhattacharjee ... for Petitioners.

Mr. Swapan Banerjee,
Mr. Suman De ... for the State.

The present application under Section 438 of the Code of Criminal Procedure, 1973 filed at the instance of Rasidur Rahaman @ Miah & Ors. is taken up for hearing and order.

It is submitted on behalf of the petitioners that no recovery was made from the petitioner and their names have transpired from the statement of co-accused.

The State refers to the case diary and opposes the prayer for anticipatory bail.

It appears that no recovery has been made from the petitioners and their names have transpired from the statement of co-accused before a police officer which is inadmissible in evidence.

Accordingly, we are inclined to hold that the petitioners have been able to rebut the statutory restrictions under Section 37 of the NDPS Act, 1985 and as such, are entitled to the anticipatory bail.

Accordingly, we direct that in event of arrest, the petitioners shall be released on anticipatory bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand) only each with two sureties of like amount each 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.

The application for anticipatory bail is, accordingly, allowed.

C.R.M. 11220 of 2020 is disposed of.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)