

23.06.2021

Court No.28
Item No.01
(ALLOWED)

akd
&
ab

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 632 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Kotwali Police Station Case No. 69 of 2021, dated 15.02.2021 under Sections 20(b)(ii)(B)/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985;

And

In the matter of : **Mahesh Roy.**

...Petitioner

**Mr. Deep Chaim Kabir,
Mr. Debasish Mukhopadhyay,
Ms. Jeenia Rudra,
Ms. Sahili Dey.**

...For the Petitioner

**Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,
Mr. Sourav Ganguly.**

...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 Kotwali Police Station Case No. 69 of 2021 under Sections 20(b)(ii)(B)/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner has filed the instant application for anticipatory bail.

It is submitted by the learned Advocate for the petitioner that he is neither named in the First Information Report nor in any other documents, but still the police is enquiring about him and frequently visiting his house in connection with the instant case. It is further submitted that the Scooty, which was carrying non-commercial quantity of contraband, i.e. Ganja, was already handed over and sold to a third party and, therefore, the petitioner in no way can be connected in the alleged commission of offence.

On the other hand, the learned Advocate for the State while opposing the prayer for anticipatory bail submits that subsequently a document obtained from the Motor Vehicle Department would establish the name of the petitioner with the said offending vehicle and, in fact, the vehicle still stands in the name of the petitioner and there is no recording of the same being transferred by the petitioner to a third party.

After hearing the respective Counsels and on perusal of the materials available on record, it is definitely a case of quality of evidence to be adduced establishing the complicity of the petitioner to the alleged offence. Furthermore, the quantity of contraband so recovered from the offending vehicle does not fall within the category of commercial quantity.

In view of the stand taken by the petitioner, we think that it is a fit case where we should exercise our discretion in allowing the petitioner on anticipatory bail.

Accordingly, 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, one of whom must be local, to the satisfaction of the arresting officer of the concerned police station and on conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with further condition that the petitioner shall meet the Investigating Officer once in a week and also make himself available as and when required for the purpose of investigation. In default, on any solitary occasion without any justifiable cause, it is open to the concerned Investigating Officer to take recourse to law without further reference to this Court.

The application for anticipatory bail being CRM 632 of 2021 is thus **allowed**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)

