

13.12.2021
Court No.01
Item No. 16
Allowed
sg

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

**CRM 827 of 2021
(Via Video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with N.C.B. Crime No. 06/NCB/KOL/2021 dated 12.02.2021 under Sections 8/18(b)/29 of N.D.P.S. Act, 1985.

And

In Re : **Tikaram Gautam & Anr.**

Petitioners

Mr. Hillol Saha Podder

For the Petitioners

Mr. Sudipto Majumder

Mr. Ratan Banik

For the State

The learned Counsel for the petitioners submits that the petitioners are falsely implicated in the case and nothing has been recovered from the petitioners. It is further submitted that petitioners have been implicated on the basis of the statement of the co-accused which is inadmissible in evidence.

The learned Counsel for the NCB strongly opposes the prayer for anticipatory bail and submits that the petitioners are absconding and

warrant of arrest has been issued against them but proclamation has not yet been made.

Considering the fact that nothing has been recovered from the petitioners and they have been implicated on the basis of the statement of the co-accused which is inadmissible in evidence and having regard to the fact that the petitioners are able to rebut the statutory restrictions under Section 37 of the NDPS Act, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners, namely, **Tikaram Gautam and Bharat Kumar Poudel**, shall be released on 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 also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

Since the trial has already been commenced, this order shall remain valid for six weeks from this date, within which time the petitioners shall surrender and obtain regular bail from the learned Special Judge, (Special Court under N.D.P.S. Act, 1985), Siliguri.

We make it clear that the Trial Court, while deciding the application for grant of regular bail, shall not be influenced by the observations made by us in this order and independently decide the said application.

The application for anticipatory bail, being C.R.M. No. 827 of 2021 is, thus, disposed of.

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

(Biswajit Basu, J)

(Soumen Sen, J)