

20.12.2021
SL No.36
Court No.1
(gc)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

**CRM 1173 of 2021
(Via video Conference)**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Sahebganj Police Station Case No.462 of 2021 dated 14.09.2021 under Sections 20(b) (ii) (B)/21(C)/29 of the NDPS Act.

And

In the matter of : **Rahim Badsha @ Rahim Badsha & Anr.**

- Petitioners.

Mr. Hillol Saha Podder,
... For the Petitioners.

Mr. Aditi Shankar Chakbrabarty, Ld. A.P.P.,
Mr. A. Biswas,
... For the State

The learned Counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated on the basis of a statement of the co-accused.

The learned Counsel for the State, however, opposes the prayer for anticipatory bail and submits that at the early stage of investigation the prayer for anticipatory bail could not be granted.

Having considered the materials on record and bearing in mind that the names of the petitioners transpired during the interrogation of the co-accused and nothing has been recovered from the custody of the petitioners, we are of the view that the petitioners are able to rebut the statutory restrictions under Section 37 of the NDPS Act.

Hence, we are inclined to grant anticipatory bail to the petitioners. The prayer for anticipatory bail is, accordingly, allowed.

Accordingly, we direct that in the event of arrest the petitioners 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and with a further condition that the petitioners shall meet the I.O. once in a week until further order and shall cooperate with the investigation and shall not leave the jurisdiction of the Sahebganj Police Station.

This order shall remain valid for six weeks from this date within which time, the petitioners shall surrender and obtain regular bail from the Trial Court. We make it clear that the Trial Court while deciding the application for grant of regular bail shall take a decision independent of the observations made by us in this order.

The application for anticipatory bail, being CRM No.1173 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.)