

CRM(A) No.165 of 2022

Via video conference

28.02.22

(S.R.)

Sl.06

Ct.32

In re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Jalangi** Police Station Case No.322 of 2014 dated 16.04.2014 under Sections 22/23 of the NDPS Act (corresponding to NDPS Case No.89 of 2014);

And

In re: Babu Daktar @ Nur Hasan Daktar

... petitioner.

Ms. Minoti Gomes

... for the petitioner.

Mr. Sanjay Bardhan

Ms. Pritha Paul

...for the State.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that no contraband substance above commercial quantity was recovered from the possession of the petitioner and that his name has transpired on the basis of the statements of co-accused before a police officer, which is inadmissible in evidence. No proclamation has also been issued against the petitioner. In view thereof, we are of the opinion that the petitioner has been able to rebut the presumption under Section 37 of the NDPS Act and as such, his custodial interrogation is not necessary, more so when upon completion of investigation charge sheet has been submitted.

Accordingly, we direct that in the event of arrest the petitioner will be released on bail upon furnishing a bond of Rs.10,000/- 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 with a further condition that the petitioner shall attend the learned court below on all the dates as specified for hearing.

It is further directed that the petitioner shall not intimidate the

witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

The application for bail being CRM(A) No.165 of 2022 is, accordingly, disposed of.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)