

CRM (A) 315 of 2022

In re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 19.01.2022 in connection with Raghunathganj Police Station Case No. 820 of 2021 dated 24.12.2021 under Section 21(c)/29 of the NDPS Act.

-And-

In the matter of : **Muslima Bibi**

... ...Petitioner

Mr. Usof Ali Dewan, Advocate
Mr. Asif Dewas, Advocate

... ... For the Petitioner

Mr. Swapan Banerjee, Advocate
Mr. Suman De, Advocate

... ... For the State

Petitioner seeks anticipatory bail.

The application is taken up for consideration subsequent to the order dated January 27, 2022.

Report as called for by the order dated January 27, 2022 filed in Court be taken on record. The report states that the husband of the petitioner was arrested with regard to a case involving NDPS Act, 1985. According to the report, the petitioner is now indulging in the same business as that of her husband who is in custody.

The said report is taken on record.

Apart from bald claim of the police to the effect that the petitioner is indulging in the business of her husband dealing with the narcotics, there is no material to implicate the petitioner with regard to the present case. No narcotic was recovered from the possession of the petitioner. The petitioner is sought to be proceeded against on the basis of the statement of the co-accused who made such statement while in custody.

In such circumstances, since the police is unable to establish nexus between the petitioner and the narcotic seized at this stage and since no narcotic was recovered from the

possession of the petitioner and since the petitioner is sought to be proceeded against on the basis of the statement of the co-accused, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, 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 on further condition that the petitioner will cooperate with the investigation and on further condition that the petitioner shall appear before the Court below and prayer for regular bail within four weeks from date.

The prayer for anticipatory bail is allowed.

CRM (A) 315 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)