

(Through Vide Conference)

CRM (A) 438 of 2022

In re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 25.01.2022 in connection with Hili Police Station Case No. 289 of 2021 dated 12.12.2021 under Sections 21(C)/22(C)/23(C)/27A of the NDPS Act.

-And-

In the matter of : **Shainur Shekh @ Mondal**

... ...Petitioner

Mr. Kaushik Chowdhury, Advocate

Ms. Busra Khatun, Advocate

... ... For the Petitioner

Mr. Ranadeb Sengupta, Advocate

... ... For the State

Supplementary affidavit filed on behalf of the petitioner in Court be taken on record.

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. 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 made while in custody. He submits that the principal accused and the petitioner are neighbors. The petitioner was in conversation with the father of the principal accused on mobile as neighbors.

Learned Advocate appearing for the State draws the attention of the Court to the contents in the case diary. He submits that the call details recording shows that the petitioner was in conversation with the father of the principal accused from whom commercial quantity of narcotic was recovered.

Considering the fact that no narcotic was seized from the possession of the petitioner and considering the fact that the petitioner is sought to be proceeded against on the basis of the statement of the co-accused made while in custody and considering the fact that the police at this stage are unable to

produce any materials to establish a direct nexus between the petitioner and 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 report before the Investigating Officer once in a fortnight till the conclusion of the investigation and on further condition that the petitioner shall appear before the Court below and pray for regular bail within four weeks from date.

The prayer for anticipatory bail is allowed.

CRM (A) 438 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)