

CRM (A) 582 of 2022

In re: An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 01.02.2022 in connection with Bhimpur Police Station Case No. 315 of 2020 dated 05.12.2020 under Sections 379/411 of the Indian Penal Code and Section 21(c) of the NDPS Act.

-And-

In the matter of : **Jakir Mondal & Ors.**

... ...Petitioners

Mr. Atis Kr. Biswas, Advocate

Mr. Amit Singh, Advocate

Mr. Jyoti Agarwas, Advocate

... ... For the Petitioners

Mr. Sanjay Bardhan, Advocate

Mr. Nirupam Dhali, Advocate

... ... For the State

Leave granted to the learned Advocate-on-record for the petitioners to correct the cause title.

Petitioners seek anticipatory bail.

Learned Advocate appearing for the petitioners submits that the petitioners were falsely implicated. No recovery was made from the possession of the petitioners. The police filed charge-sheet. The police are proceeding against the petitioners on the basis of the statement of the co-accused made while in custody.

Learned Advocate appearing for the State submits that there are statements recorded by local witnesses who implicates all the petitioners. He submits that petitioner no. 3 was arrested.

In the facts of the present case, no recovery was made from the possession of the petitioners. The police filed charge-sheet. The police are unable to produce any materials to establish the nexus between the petitioners and the person arrested with the commercial quantity of narcotics.

Considering the gravity of the offence and the involvement of the petitioners therein, we are of the view that the petitioners are able to overcome the restrictions under

Section 37 of the NDPS Act, 1985. Consequently, we are inclined to grant anticipatory bail to the petitioners except petitioner no. 3 (Shahjahan Mondal @ Shahajahan Mondal) is concerned who was arrested. Accordingly, CRM (A) 582 of 2022 is dismissed so far as petitioner no. 3 (Shahjahan Mondal @ Shahajahan Mondal) is concerned.

Accordingly, we direct that in the event of arrest, the petitioner nos. 1, 2 and petitioner nos. 4 to 9 shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 condition that the petitioners shall appear every day before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

The prayer for anticipatory bail is partly allowed.

CRM (A) 582 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)