

25.02.2022
Sl. 36
Court No.29
suvayan
(Rejected)

CRM (A) 972 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Raiganj** P.S. Case No. **802/2016** dated **29/06/2016** under Sections **20(b)** of the N.D.P.S. Act corresponding to N.D.P.S. Case No.13/16.

And

In the matter of: Sri Mritunjay Sarkar

....petitioner.

Mr. Kazi Safiullah

... for the petitioner.

Mr. Sanjoy Bardhan
Ms. Baishakhi Chatterjee

...for the State.

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner sold the vehicle from which the contraband was claimed to be seized. He refers to the documents annexed to the petition. He submits that the petitioner was not in possession of the vehicle at the material point of time.

Learned Advocate appearing for the State submits that the commercial quantity of narcotic was seized from the vehicle over which, the petitioner is the owner.

It appears from the documents annexed in the petition that the petitioner entered into an agreement for the purpose of selling the vehicle. The petitioner is yet to receive the entirety of the consideration for the sale. Therefore, in our view that the ownership of the vehicle did not stand transferred to the new purchaser. The petitioner can be said to be in constructive possession of the vehicle as the owner thereof alongwith the person intending to purchase the same.

In such circumstances, since commercial quantity of narcotic was seized from the vehicle over which, the petitioner is

still the owner, we are of the view that the petitioner is unable to over come the restrictions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Consequently, we are unable to grant anticipatory bail to the petitioner.

The application for anticipatory bail, being CRM (A) 972 of 2022, is rejected.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

