

6 10.03.2022
(AD) Court No.29
(Allowed)

C.R.M. (A)984 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Raninagar** P.S. Case No. **353 of 2021** dated **29/08/2021** under Sections **21(C)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Rentu Sk

....petitioner.

Mr. Soumyajit Das Mahapatra
Mr. Ali Ahsan Alamgir
Ms. Riya Das
Ms. Rabia Khatoon

...for the petitioner.

Mr. Saryati Datta

...for the State.

Petitioner renews the prayer for anticipatory bail.

Learned Advocate appearing for the petitioner submits that the earlier order of rejection dated November 17, 2021 passed in CRM 5241 of 2021 records a factually incorrect situation so far as the submission made on behalf of the State is concerned. He submits that the police personnel in the raid party did not say that they recognized the petitioner which was sought to be submitted on behalf of the State on the previous occasion. He submits that no recovery was made from any of the petitioners. The police submitted charge sheet. The police are proceeding on the basis of the statement of the co-accused while in custody. Consequently, the petitioner is entitled to anticipatory bail.

Learned Advocate appearing for the State draws the attention of the Court to the statements of the police personnel conducting the raid as are available in the case diary. He submits that two persons fled away from the spot. The police personnel learnt about their names and addresses from the co-accused. He submits that the question of making any incorrect submission on the previous occasion does not arise.

Considering the fact that the police submitted charge sheet and considering the fact that no narcotics was recovered from the possession of the petitioner and that the petitioner is being proceeded against on the basis of the statement of the co-accused made while in custody and considering the fact that the police are unable to produce any material at this stage to establish the nexus between the petitioner and the co-accused arrested with commercial quantity of narcotics, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we 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 also 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 shall appear before the jurisdictional Court and pray for regular bail within four weeks from date and on further condition that the petitioner shall appear before the

Court below on every date fixed for hearing.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The prayer for anticipatory bail of the petitioner is allowed.

C.R.M.(A) 984 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)