

10.03.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1168 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Hili** Police Station Case No. **295** of **2021** dated **21.12.2021** under Sections 21(C)/22(C)/23(C)/27A of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Sadhu Mandal @ Sahadat Mandal.

..... petitioner

Ms. Busra Khatun

....for the petitioner

Mr. N. P.Agarwala

Mr. Saryati Dutta

....for the State

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. Bail was granted to the main accused by the Jurisdictional Court.

Learned advocate appearing for the State submits that, the learned Judge granted the bail to the main accused incorrectly in view of the fact that commercial quantity of narcotic was seized from such person. The period of submission of charge-sheet is 180 days. Such period did not expire when the bail was granted on the ground of 60 days expiring from the date of arrest of such accused and charge-

sheet not being filed against such accused. So far as the present petitioner is concerned, he submits that there is a past antecedent so far as the petitioner is concerned, the petitioner assaulted a Border Security Force personnel on a previous occasion and there was a police complaint with regard thereto.

Considering the fact that no narcotic was seized from the possession of the petitioner and considering the fact that the police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody, 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. The petitioner here stands on a different footing than the other co-accused who was granted bail.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be 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 meet the Investigating Officer once in a fortnight till the conclusion of the investigation and on condition that the petitioner shall appear before the jurisdictional court on every date fixed and pray for regular bail within a period of four weeks from date.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)