

47 28.03.2022
(AD) Court No.29
(Rejected)

C.R.M. (A)1425 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Goalpokher** P.S. Case No.**286 of 2020** dated **19/09/2020** under Sections **21(c)/29** of Narcotic Drugs and Psychotropic Substances Act, 1985 and Charge Sheet submitted vide Charge Sheet No-226 of 2021 dated 31.07.2021, under Sections **21(c)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: - Bhajan Ghosh

...petitioner.

Mr. Shabir Ahmed
Ms. Debasree Dhamali

... for the petitioner.

Mr. Ranadeb Sengupta

...for the State.

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that no narcotics 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 refers to the order of rejection of the prayer for anticipatory bail of the petitioner dated December 22, 2021 passed in CRM 8661 of 2021. He refers to the charge sheet also. He submits that there is no iota of evidence to suggest that the petitioner is the present owner of the vehicle. He doubts whether a vehicle which was purchased four months ago by the person, could be sold to the petitioner. According to him, the petitioner was falsely implicated.

Learned Advocate appearing for the State submits that the vehicle was originally taken on loan by Md. Arif Rahaman. He sold the same to Md. Sahil Islam. Thereafter, Md. Sahil Islam sold the vehicle to Bhajan Ghosh. The sale between Md. Sahil

Islam and Bhajan Ghosh was prior to the seizure of narcotics from the vehicle. He refers to the statement recorded under Section 161 of the Code of Criminal Procedure of the local person stating that the vehicle was used to be parked at a particular spot near the house of the petitioner and that he knew the petitioner to be the owner of such vehicle.

Considering the fact that the commercial quantity of narcotics was seized from the vehicle which is said to be belonging to the petitioner, we are of the view that the petitioner is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we are unable to enlarge the petitioner on anticipatory bail.

Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

C.R.M. (A) 1425 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)