

11.04.2022

05

Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1609 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kumarganj** Police Station Case No. **128** of **2020** dated **02.09.2020** under Sections 21(c)/22(c)/23(c)/27A of the Narcotic Drugs and Psychotropic Substances Act.

And

In Re : Hafizur Molla @ Happy & Ors.

..... petitioners

Mr. Anindya Ghosh

Ms. Sumita Sarkar

....for the petitioners

Mr. Sanjoy Bardhan

Ms. Debjani Sahu

....for the State

Petitioner seeks anticipatory bail.

Learned advocate appearing for the petitioners submits that, no recovery was made 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. The police filed charge-sheet and, therefore, custodial interrogation of the petitioners are not required.

Learned advocate appearing for the State submits that, apart from the statement of the co-accused, there are two statements of the neighbours of the petitioners claiming that the petitioners are engaged in smuggling.

Considering the fact that the police filed charge-sheet and considering the fact that no narcotic was recovered from the possession of the petitioner and considering the fact that the police is 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 petitioners are not able to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each, 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 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

