

**C.R.M. (A) 1937 of 2022**

**04.05.2022**  
Sl. 5  
Court No.29  
sourav  
(Allowed)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Kotwali** Police Station Case No. **843** of **2021** dated **26.08.2021** under Sections **20(b)(ii)(c)/29** of the NDPS Act.

And

In the matter of: **Sagar Ghosh**

....petitioner.

Mr. Sabir Ahmed  
Mr. Amanul Islam  
Mr. Sourav Mukherjee

...for the petitioner.

Mr. Sanjoy Bardhan  
Mr. Nirupam Dhali

...for the State.

The Inspector-in-Charge as well as the Investigating Officer are present in Court pursuant to the order dated April 29, 2022.

The learned advocate appearing for the State submits that the entire case diary was made over to him subsequent to the order dated April 29, 2022.

He submits a written instruction in Court which be taken on record.

It appears from such written instruction that mistakenly a portion of the case diary was not made over to him on the previous occasion.

No narcotic 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. The police filed charge-sheet. The call details recordings do not establish any nexus between the petitioner and the person arrested with the commercial quantity of narcotic. The police at this stage are unable to show any nexus between the person

arrested with the commercial quantity of narcotic with the petitioner.

It is contended on behalf of the State that there is a criminal antecedent so far as the petitioner is concerned. The petitioner is involved in a police case where a charge-sheet was submitted as against him in the State of Odisha involving the Narcotic Drugs and Psychotropic Substances Act, 1985.

It is submitted on behalf of the petitioner that the petitioner stands acquitted from the Odisha case.

In such circumstances, 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner 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 petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

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

**C.R.M. (A) 1937 of 2022** is, thus disposed of.

Further presence of the Inspector-in-Charge and Investigating Officer are dispensed with.

**(Debangsu Basak, J.)**

**(Bibhas Ranjan De, J.)**

