

07.06.2022

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rejected

C.R.M.(A) 2268 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with N.D.P.S. Case No. 100 of 2021 arising out of NCB Crime No. 18/NCB/KOL/2021 dated 01.06.2021 under Section 8(c) read with Sections 25(A),28 and 29 of NDPS Act.

And

In Re : Md. Mostafa @ Mostafa Sk. petitioner

Mr. Milon Mukherjee, Sr. Adv.

Ms. Sreyashee Biswas

Ms. Benajir Hasna

.... for the petitioner

Mr. Sagar Saha

.... for the NCB

Mr. Sanjoy Bardhan

Mr. Palash Chandra Majhi

.... for the State

It is submitted by the learned Counsel appearing for the petitioner that no narcotic substance was recovered from his possession.

We have considered the materials on record. Although the prosecution case is primarily hinged the statement of co-accused before NCB officers which falls foul of the ratio in ***Tofan Singh vs. State of Tamil Nadu***¹, we note that the petitioner had not co-operated during investigation and proclamation has been issued against him prior to the filing of the application for pre-arrest bail.

¹ (2021) 4 SCC 1

Under such circumstances, we are of the opinion that this is not a fit case to grant anticipatory bail to the petitioner.

Accordingly, prayer for anticipatory bail is rejected.

However, it shall be open to the petitioner to appear before the court below and pray for regular bail in accordance with law. In the event the petitioner does so within seven days from date, the court below shall consider his prayer for regular bail without being swayed by the rejection of anticipatory bail by this Court and in the light of the ratio in ***Tofan Singh (supra)***.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)