

06.06.2022.

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Ct.No.28

as

(Rejected)

C.R.M. (A) 2298 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with NDPS Case No.67 of 2017 arising out of NC.B. Crime No.36/NCB/KOL/2017 under Section 8(C) read with 21(C)/27A/29 of the N. D. P. S. Act.

In the matter of : Ashok Kumar Gupta

... Petitioner.

Mr. Subhabrata Chowdhury,
Ms. Tripti Pandey,
Mr. Mriganka Mistry.

...for the Petitioner.

Mr. Rajendra Banerjee.

.....for the NCB.

Heard the learned Advocates appearing for the parties.

It is submitted on behalf of the petitioner no narcotic substance was recovered from his possession. His complicity transpires from the statement of co-accused which is inadmissible in law in the light of ***Tofan Singh Vs. State of Tamil Nadu***¹.

Learned Advocate appearing for NCB submits that the petitioner did not respond to notice under Section 67 of the N. D. P. S. Act in the course of investigation. He was declared an absconder and proclamation/attachment were issued against him.

We have considered the materials on record. Although no narcotic substance was recovered from the possession of the

¹ (2021) 4 SCC 1.

petitioner, it appears the petitioner is an absconder against whom proclamation and attachment have been issued.

Under such circumstances, we are not inclined to grant pre-arrest bail to the petitioner.

It is, however, open to the petitioner to appear before the court below and pray for regular bail within seven days from date. In the event he does so, the trial court shall consider his prayer for regular bail without being swayed by the rejection of his prayer for pre-arrest bail and bearing in mind the extent of complicity of the petitioner in the light of the ratio in Tofan Singh (Supra).

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

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)