

07.06.2022
Sl. No.77
akd
[ALLOWED]

C. R. M. (A) 2385 of 2022

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 19.05.2022 in connection with Ranitala Police Station Case No. 150 of 2022 dated 20.04.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.102 of 2022)

And

In Re: ***Selim Sk. @ Salim Sk. & Anr.***

... .. Petitioners

Mr. Anisur Rahaman

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Debjani Das Gupta

... .. for the State

It is submitted on behalf of the petitioners that no narcotic substance was recovered from their possession and they have been falsely implicated in the instant case.

Learned advocate appearing for the State opposes the prayer for anticipatory bail and submits that 150 bottles of *phensedyl* containing *codeine mixture* above commercial quantity was recovered from the possession of the petitioners and co-accused person.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioners and their complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Under such circumstances, we are of the opinion that the petitioners have been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Hence, we are inclined in granting anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest, the accused/petitioners, namely **(1) Selim Sk. @ Salim Sk. & (2) Tunu Sk. @ Nutu Sk.**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties of like amount each, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)