

4 23.06.2022
(AD) Court No.29
(Allowed)

C.R.M. (A) 2584 of 2022

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Special Case No.51 of 2018 arising out of Seizure Case No.**02/NDPS/CL/CUS/BDNPU/2018** dated **31/08/2018** under Sections **15(c)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Sekh Naimuddin @ Sk. Nayeem @ Chota Nayeem
....petitioner.

Mr. Uday Sankar Chattopadhyay
Mr. Santanu Maji
Ms. Snigdha Saha
Mr.P. Basak

...for the petitioner.

Ms. Rajashree Venket Kundalia
Mr. K.K. Maiti
Mr. Tapan Bhanja

...for the opposite party.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that no recovery was made from the possession of the petitioner. The petitioner is sought to proceed against on the statement of the co-accused made while in custody. The customs filed the complaint and, therefore, the custodial interrogation of the petitioner is not required.

Learned Advocate appearing for the Customs authorities refers to the case diary and the complaint submitted. She submits that summons was issued to the petitioner to which he did not respond.

In response to a query of the Court, she is unable to draw the attention of the Court to any materials establishing the nexus between the petitioner and the person arrested with the

commercial quantity of narcotics.

Considering the fact that no narcotics was recovered from the possession of the petitioner and considering the fact that the Customs are at this stage unable to establish any nexus between the petitioner and the person arrested with the commercial quantity of narcotics, 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 also 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.

The prayer for anticipatory bail of the petitioner is allowed.

C.R.M. (A) 2584 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)