

13.07.2022
Serial no.5
Aloke

CRM (A) 2665 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with NDPS seizure Case No. S/C No. 13/NDPS/CL/Phensedyl/BCPU/CCP/WB/2021-22 dated 27.11.2021 under Sections 21(c)/29 of the NDPS Act.

-And-

In the matter of : **Biplab Bhanjan Sarkar**

... .. Petitioner

Ms. Minoti Gomes, Advocate

Mr. Jisan Iquabal Hossain, Advocate

... .. For the Petitioner

Ms. Rajashree Venket Kundalia, Advocate

... ..For the State

Petitioner seeks anticipatory bail.

The report called for by the order dated June 15, 2022 filed in Court be taken on record.

The petitioner visited the Investigating Officer once.

The Customs Authorities are unable to establish any nexus between the petitioner and the seized commercial quantity of narcotics and the person who was arrested with the same. No recovery was made from the possession of the petitioner.

The Customs Authorities rely upon a criminal antecedent of the petitioner as also of the fact that in response to the notice under Section 67 of the NDPS Act, 1985 the petitioner stated he would produce certain documents which he is yet to produce.

No recovery was made from the petitioner. The Customs Authorities are unable to establish any nexus between the petitioner and the quantity of narcotics seized and the persons arrested with the commercial quantity of narcotics. The Customs Authorities are seeking to proceed against the petitioner on the basis of the statement of the co-accused made while in custody. We are therefore of the view that the petitioner is able to rebut the presumptions under Section 37 of the NDPS Act, 1985.

In such circumstances, we are inclined to 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 be

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 meet the Investigating Officer once in a week till the conclusion of the investigation and on further condition that the petitioner shall appear on every date 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.

Prayer for anticipatory bail of the petitioner is allowed.

CRM (A) 2665 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)