

07.07.2022
Serial no. 05
[Dd]
(Anticipatory bail)
(Allowed)

CRM (A) 3112 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. 03/NDPS/CL/BCPU/CCP/WB/2020-2021** dated **02.03.2021** under Sections **21(c)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985 corresponding to NDPS Special Case No. 41 of 2021 dt. 03.03.2021.

-And-

In the matter of : **Md. Najmul Haque @ Sk. Najibul @ Toton**
... .. Petitioner

Ms. Minoti Gomes, Advocate
... .. For the Petitioner

Ms. Rajashree Venket Kundalia, Advocate
... ..For the Customs

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that no narcotic was recovered from the possession of the petitioner. The petitioner is sought to be proceeded against on the basis of the statements of the co-accused made while in custody.

Learned advocate appearing for the Customs submits that final complaint was submitted with the jurisdictional Court naming the petitioner as accused no. 2. The accused no. 2 is the ultimate beneficiary of the narcotic.

On a query from the Court, learned advocate appearing for the Customs submits that apart from the statements of the co-accused made while in custody, the Customs at this stage are unable to state any other nexus.

No narcotic was recovered from the possession of the petitioner. The Custom Authorities are proceeding against

the petitioner on the basis of the statements of the co-accused made while in custody. The Custom Authorities are unable to establish at this stage, any nexus between the petitioner and the person arrested with the commercial quantity of narcotic or the commercial quantity of narcotic seized. Custom Authorities submitted final complaint before the jurisdictional Court.

In such circumstances, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985.

Consequently, 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 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) 3112 of 2022 is **disposed of.**

(Debangsu Basak, J.)

(Bibhas Ranjan De, J)