

04.07.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 3129 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Lalgola** Police Station Case No. **825** of **2021** dated **20.12.2021** under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 14 of the Foreigner Act.

And

In Re : Akbar Ali

..... petitioner

Mr. Niladri Sekhar Ghosh

Mr. Tapodip Gupta

Mr. Sourav Mondal

....for the petitioner

Mr. Suman De

Mr. Parvej Anam

Mr. Subhajit Chowdhury

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was falsely implicated. His name transpires from the statement of the co-accused made while in custody. No narcotic was recovered from the possession of the petitioner. The police filed charge-sheet and, therefore, custodial interrogation of the petitioner is not required.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary.

No narcotic was seized from the possession of the petitioner. The petitioner is sought to be proceeded against on

the basis of the statement of the co-accused made while in custody. The police filed charge-sheet. At this stage, the police are unable to establish any nexus between the petitioner and the person arrested with commercial quantity of narcotic or the seized narcotic. 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 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/-, 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 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

