

07.07.2022
Item No.7
Court No.29
CHC
Allowed

CRM (A) 3157 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Gangarampur Police Station Case No.328 of 2020 dated 17.09.2020 under Sections 22(c)/23(c)/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act read with Sections 27(a)(b) of the Drugs and Cosmetics Act.

-And-

In the matter of : **Alimuddin Sarkar @ Miya**
...petitioner

Mr. Kaushik Choudhury, Advocate
Ms. Busra Khatoon, Advocate
... ... For the Petitioner

Mr. Sanjoy Bardhan, Id. A.P.P.
Ms. Debjani Dasgupta, Advocate
Mr. C. R. Ghosh, Advocate
... ...For the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that charge-sheet was filed against the petitioner grossly implicating him. No recovery was made from the possession of the petitioner. Petitioner was not named in the F.I.R. The police apparently proceeded against the petitioner on the basis of the statement of co-accused made while in custody.

Learned advocate appearing for the State submits that there are criminal antecedents so far as petitioner is concerned. His prayer for anticipatory bail in other police case involving Narcotic Drugs and Psychotropic Substances Act was turned down.

Learned advocate appearing for the petitioner submits that petitioner was granted bail by the co-ordinate Bench in such police case. No recovery was made from the possession of

the petitioner in this present case. Police proceeded against the petitioner on the basis of the statement made while in custody.

Police filed charge-sheet. At this stage police are unable to establish any nexus between the petitioner and the person arrested with the commercial quantity of narcotic or seized commercial quantity of narcotic.

In such circumstances, we are of the view that petitioner is able to overcome the restriction under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. 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 as and when called for 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) 3157 of 2022 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)