

29.07.2022

19

Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 3603 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kaliachak** Police Station Case No. **1439** of **2021** dated **27.12.2021** under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 read with Section 27A of the Drugs and Cosmetics Act.

And

In Re : Usman Sk

..... petitioner

Ms. Minoti Gomes

....for the petitioner

Mr. Swapan Banerjee

Ms. Purnima Ghosh

....for the State

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 statement of the co-accused made while in custody. The petitioner was enlarged on anticipatory bail in another police case.

Learned advocate appearing for the State submits that, there are criminal antecedents so far as the petitioner is concerned. He refers to a report dated July 25, 2022.

In the present case, no narcotic was recovered from the possession of the petitioner. The police are proceeding against

the petitioner 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 commercial quantity of 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.)

