

05.08.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 3760 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 : Kabir Sk @ Md. Kabir Sk.

..... petitioner

Mr. Tapodip Gupta

....for the petitioner

Mr. Arijit Ganguly

Mr. Saryati Dutta

....for the State

The claim for parity is not being disputed on behalf of the State.

No narcotic was recovered from the possession of the petitioner. The police is unable to establish any nexus between the petitioner and the seized commercial quantity of narcotic and/or the arrested person.

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.

In reply to query of the Court, learned advocate appearing for the petitioner submits that, the petitioner is not being proceeded against under the provisions of the Foreigners Act. In any event, the petitioner is a citizen of India.

In such circumstances, 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.)