

11.03.2022
Item no. 01
Court No.32
Avijit Mitra

C.R.M. 8207 of 2021

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure;

And

In Re : Manik Molla & anr.

.... petitioners

Mr. Mirtyunjoy Chatterjee,
Mr. D. Mazumder,
Mr. G.N. Imrohi,
Mr. S. Basu

...for the petitioners

Mr. Tapandeb Nandy,
Mr. Antarikhya Basu

....for the State

Apprehending arrest in connection with Domkal Police Station Case No.721 of 2021 dated 28.11.2021 under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, the present application has been preferred.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that no contraband substance above commercial quantity was recovered from the possession of the petitioners and their names have transpired on the basis of co-accused's statement before a police officer, which is inadmissible in evidence. As such, statutory restrictions are not attracted. Co-accused persons similarly situated with the petitioners had already been granted anticipatory bail by this Court on 1st February, 2022. In view thereof, the petitioners may be granted anticipatory bail.

Mr. Basu, learned advocate appearing for the State however submits that the petitioners are involved in the alleged offence. The petitioner no.2 had telephonic conversation with one Tusharuddin, who is in custody, even on the date of the alleged incident. The mobile seized from Tusharuddin bearing no.7365871770 stands registered in his name and calls were received in the said mobile from a mobile bearing no.8768403427, which stands registered in the name of the petitioner no.2. In support of such contention he has drawn our attention to the CDRs.

Heard the learned advocates appearing for the respective parties.

Prima facie, there had been no recovery of contraband substance above commercial quantity from the possession of the petitioner no.1 and his name has transpired on the basis of co-accused's statement. He did not have any telephonic conversation with Tusharuddin and as such, we are of the opinion that statutory restrictions are not attracted in respect of petitioner no.1 and his prayer for anticipatory bail is allowed.

Accordingly, we direct that in the event of arrest, the petitioner no.1 namely, **Manik Molla**, 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with a further direction that petitioner no.1 shall meet with the Investigating Officer once a week till investigation is complete.

He shall also attend the learned Trial Court on all the dates as specified for hearing. He shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner no.1 fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

From the CDRs it appears that the petitioner no.2 had mobile conversation with Tusharuddin, who is presently in custody. Such conversation ranges from 26th November, 2011 to 28th November, 2011 i.e. the date of the alleged incident. In view thereof, the involvement of the petitioner no.2 in the alleged offence cannot be ruled out at this stage and the statutory restrictions are attracted so far as the petitioner no.2 is concerned and as such, his custodial interrogation may be necessary. The prayer for anticipatory bail of the petitioner no.2, namely, **Abbas Sk @ Abbas Ali Sk** is refused.

Accordingly, the application for anticipatory bail being C.R.M. 8207 of 2021 is partly allowed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)

