

CRM 8316 of 2021

In re: An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 07.12.2021 in connection with NCB Crime No. 16/NCB/KOL/2021 dated 17.05.2021 under Sections 22(c)/23(c)/29 of the NDPS Act.

-And-

In the matter of : **Babul Islam @ Babu Sk**

... ..Petitioner

Mr. Pradip Kr. Kundu, Advocate

... .. For the Petitioner

Mr. Y.J. Dastoor, Id. ASG

Mr. Ravi Ranjan Kumar, Advocate

... .. For the UOI

Petitioner seeks anticipatory bail.

The application for anticipatory bail is taken up for consideration subsequent to the order dated March 16, 2022.

Learned Additional Solicitor General submits on behalf of the NCB that, although, charge-sheet was submitted against the accused in custody. The petitioner is yet to respond to the notice under Section 67 of the NDPS Act of 1985. He submits that the petitioner may be directed to appear before the Investigating Agency and a period of four weeks may be granted for the Investigating Agency to file supplementary charge-sheet if necessary.

The petitioner before the Court is seeking anticipatory bail on the ground that no narcotic substance was recovered from the possession of the petitioner and that the petitioner is sought to be proceeded against on the basis of the statement of the co-accused made while in custody.

There is no materials presently on record to suggest, let alone establish that there is any nexus between the petitioner and the co-accused who was arrested with

commercial quantity of narcotics. The police filed charge-sheet against the petitioner and the person in custody. No recovery was made from the possession of the petitioner. The petitioner is sought to be proceeded against only on the basis of the statement of the co-accused made while in custody. Consequently, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, 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 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 every day 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.

The prayer for anticipatory bail is allowed.

CRM 8316 of 2021 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)