

06.01.2022
tkm/ct 29
sl no. 8

**C.R.M. 8950 of 2021
(via video conference)**

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Sagarpara P.S case no. 103 of 2021 dated 5.6.2021 under sections 188/379/411/34 of the IPC and sections 21(c)/29 of the NDPS Act
and

Allowed

In Re : Asim @ Yeasim Mondal petitioner

Mr. J I Hossian
..... for the petitioner

Mr. R Sengupta
..... for the State

It is submitted on behalf of the petitioner that no narcotic was recovered from his possession and he has been falsely implicated in the instant case.

Learned lawyer for the state opposes the prayer for anticipatory bail and submits that the petitioner ordinarily indulged in dealing in narcotic substance and had fired at the BSF personnel who apprehended co-accused with narcotic.

We have considered the materials on record. Complicity of the petitioner in the alleged crime has transpired from the statement of co-accused before police officer which is inadmissible in evidence. Statement of other witnesses are general, omnibus and hearsay in nature.

In view of the aforesaid fact, we are of the opinion that petitioner has been able to rebut the statutory restrictions under section 37 of the NDPS Act and he may be granted anticipatory bail.

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.

Petitioner shall appear before the court below and pray for regular bail within four weeks from date.

The application being CRM 8950 of 2020 is disposed of.

(Bibhas Ranjan De, J.)

(Joymalya Bagchi, J.)