

20.09.2022

12

Ct. No. 29

**KAUSHIK**

Allowed

**C.R.M.(A) 4482 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. **37** of **2022** dated **10.01.2022** under Sections 21(C)/27A/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Banu @ Md Banu Sekh @ Md. Banu Sk

..... petitioner

Mr. Krishnendu Bhattacharya

Mr. Priyankar Ganguly

Ms. Shalini Bairagi

....for the petitioner

Mr. Saryati Dutta

....for the State

Petitioner prays for anticipatory bail.

Learned advocate appearing for the petitioner submits that, the petitioner was falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the fact that, notice of proclamation of warrant of arrest was served upon the petitioner.

No narcotic was recovered from the possession of the petitioner.

The police filed charge-sheet.

The petitioner is sought to be proceeded against on the basis of the statement of the co-accused made while in custody. Similarly situate co-accused was enlarged on anticipatory bail.

The police, at this stage, are unable to demonstrate 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 rebut the presumption 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.)**

**(Md. Shabbar Rashidi, J.)**

