

20.09.2022

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 4488 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. **241** of **2022** dated **05.03.2022** under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Ali Zinnat @ Md. Ali Jinnah

..... petitioner

Mr. Arup Kumar Bhowmick

Ms. Oindrila Ghosh

....for the petitioner

Mr. Sanjoy Bardhan

Ms. Debjani Dasgupta

....for the State

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. Two of the co-accused were enlarged on anticipatory bail, who are standing on the same footing as that of the petitioner.

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.)