

14.11.2022

Serial no. 03

[Dd]

*(Petrn. 1- **allowed***

*Petrn. 2- **Rejected**)*

CRM (A) 4705 of 2022

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Naihati GRPS** Case No. **41** of **2022** dated **22nd August, 2022** under Sections **20(b)(ii)(B)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985 corresponding to NDPS Case No. **63 of 2022**.

-And-

In the matter of : **Arabinda Sarkar & Anr.**

... .. Petitioners

Mr. Shibagi Kumar Das,

Ms. Rupsa Sreemani, Advocates

... .. For the Petitioners

Mr. Saibal Bapuli, Id. APP

Mr. Arani Bhattacharyya, Advocates

... ..For the State

Report as called for by the order dated September 30, 2022 be taken on record.

The police filed charge sheet.

There are call details record between the person arrested with the commercial quantity of narcotics and the second petitioner.

In such circumstances, we are not inclined to grant anticipatory bail to the second petitioner (Madan Biswas)

So far as the first petitioner is concerned, the police are proceeding against him on the basis of the statements of the co-accuseds made while in custody. At this stage police are unable to establish any nexus between the first petitioner and the commercial quantity of narcotics seized and/or the person arrested with the commercial quantity of narcotics.

In such circumstances, we are of the view that the first 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 first petitioner (Arabinda Sarkar)

Accordingly, we direct that in the event of arrest the petitioner no. 1 (Arabinda Sarkar) 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 also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner no. 1 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 no. 1 in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is **partly allowed**.

CRM (A) 4705 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)