

CRM (A) 4708 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Murutia Police Station Case No. 201 of 2022 dated 22.08.2022 under Sections 379/411 of the Indian Penal Code and Section 20(b)/29 of the NDPS Act, 1985.

-And-

In the matter of : **Jhantu Biswas**

... .. Petitioner

Mr. Md. Habibur Rarhaman, Advocate

... .. For the Petitioner

Mr. Suman De, Advocate

... ..For the State

Petitioner seeks anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated. The police filed charge-sheet. No narcotic was recovered from the possession of the petitioner. The police are proceeding on the basis of the statement of the co-accused made while on custody.

Learned Advocate appearing for the State draws the attention to the materials in the case diary and in particular the statements recorded under Section 161 of the Code of Criminal Procedure of the independent witness. No narcotic was recovered from the possession of the petitioner. The statement of the independent witness does not state that the petitioner was seen with the arrested person with narcotics.

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 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

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 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.

Prayer for anticipatory bail of the petitioner is allowed.

CRM (A) 4708 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)