

10.11.2022
Serial no.14
Aloke

CRM (A) 5139 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Bhimpur Police Station Case No. 312 of 2021 dated 31.10.2021 under Section 21(c) of the NDPS Act, 1985.

-And-

In the matter of : **Raju Mondal**

... .. Petitioner

Mr. Atis Kr. Biswas, Advocate

Mr. Jyoti Agarwal, Advocate

... .. For the Petitioner

Mr. Arijit Ganguly, Advocate

Mr. Sanjib Kr. Dan, Advofate

... ...For the State

Petitioner seeks anticipatory bail on the ground of parity with the other co-accused, Jewel Mondal @ Juel who was granted anticipatory by an order dated March 15, 2022 passed in CRM (A) 1241 of 2022.

The contention of parity is not being disputed on behalf of the State.

No narcotic was recovered from the possession of the petitioner. The petitioner is sought to be proceeded against on the basis of the statement of the co-accused made while in custody. The police filed charge-sheet.

At this stage, police are unable to demonstrate any nexus between the petitioner and the person arrested with the commercial quantity of narcotics or the seized commercial quantity of 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 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) 5139 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)