

16.11.2022
Serial no.6
Aloke

CRM (A) 5161 of 2022

In re : An Application for Anticipatory Bail under Section 438 of the Code of Criminal Procedure in connection with Tapan Police Station Case No. 345 of 2022 dated 13.06.2022 under Sections 21(C)/22(C)/23(C)/27A of the NDPS Act.

-And-

In the matter of : **Afjal Mondal @ Dilip Mondal**

... .. Petitioner

Mr. Kaushik Choudhury, Advocate

Ms. Busra Khatoon, Advocate

... .. For the Petitioner

Mr. Antarikhya Basu, Advocate

... ..For the State

Petitioner seeks anticipatory bail.

Report as called for by the order dated November 10, 2022 filed in Court be taken on record.

The report speaks of villagers claiming that the petitioner is engaged in the business of narcotics.

The statements of the villagers recorded under Section 161 of the Code of Criminal Procedure suggest that the involvement of the petitioner in the narcotics business is hearsay.

No narcotic was recovered from the possession of the petitioner. The police is proceeding against the petitioner on the basis of the statement of the co-accused made while in custody.

The police at this stage are unable to demonstrate any nexus between the petitioner and the person arrested with the commercial quantity of narcotics and/or the seized commercial quantity of narcotics.

In such circumstances, we are of the view that the 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 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 will report to the Investigating Officer once in a week till the conclusion of the investigation 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) 5161 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)