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(AD) 24.11.2022

C.R.M. (A) 5414 of 2022

Court No.29
(Allowed)

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure corresponding to NDPS Case No.14 of 2020 in connection with **Suti** Police Station Case No.**28 of 2020** dated **15/01/2020** under Sections **21(c)/29** of Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: **Abdul Sk**

....petitioner.

Mr. Arnab Chatterjee
Mr. Anisur Rahman
Ms. Dhanasree Biswas

...for the petitioner.

Mr. Saryati Datta

...for the State.

Petitioner prays for anticipatory bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated.

Learned Advocate appearing for the State draws the attention of the Court to the statements recorded under Section 161 of the Code of Criminal Procedure and the materials in the case diary.

The police filed charge sheet.

Apparently, the police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody.

The so-called independent witness who recorded the statement under Section 161 of the Code of Criminal Procedure claims that he heard that the petitioner was involved in the business.

Apparently, such statement is on the basis of the hearsay.

No narcotics were recovered from the possession of the

petitioner.

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

In such circumstances, we are of the view that the petitioner is able to rebut the presumptions 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/- (Rupees Ten Thousand Only), with two sureties of like amount each to the satisfaction of the Arresting Officer and also 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.

The prayer for anticipatory bail of the petitioner is allowed.

C.R.M. (A) 5414 of 2022 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)