

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

09.02.2022
cm/ct 28
JL. sl no. 1

C.R.M. 143 of 2019

In Re : An application for Anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Tufanganj P.S Case No. 15 of 2014 dated 07.01.2014 under Sections 20(a)(i) of the Narcotic Drugs & Psychotropic Substances Act.

And

Allowed

In Re : Ram Prasad Sarkar

..... petitioner

Ms. Minoti Gomes
Md. Hafiz Ali

..... for the petitioner

Mr. Aditishankar Chakraborty, Ld. A.P.P.
Mr. Biswarup Roy

... for the State.

Petitioner submits that he is a superannuated employee of North Bengal State Transport Corporation and was posted at Cooch Behar since 1988. The petitioner has a residential house on dag No. 4626, in Khatian No. 9556, Mouza-Balarampur, District Cooch Behar and had no control over dag No. 4626 in Khatian No. 9556, Mouza-Balarampur which was owned by one Baidyanath Das, since deceased. He has been falsely implicated in the instant case.

Learned lawyer for the State submits that 42 number of ganja plants with approximate yield of 21 kgs. of ganja value at Rs. 63,000/- was recovered by the Officers of the Excise Department. The said plants were found in the open field adjacent of dwelling house in Mouza-Balarampur, J.L. 88, Plot No. 4626, Khatian No. 7339/9556.

We have considered the materials on record. Record of rights shows Plot No. 4626 in Khatian No. 7339 is owned by Baidyanath Das and the portion in Khatian No. 9556 is owned by the petitioner herein. The record of rights also indicate a house is constructed on the portion of the plot which is situated in Khatian No. 9556. From an analysis of the aforesaid records a prima facie opinion may be formed that open field was mostly likely in the portion of the dag in Khatian No. 7339 which stands in the name of one Baidyanath Das. Statements of witnesses do not show that the petitioner had control and possession over the plot which stood in the name of Baidyanath Das. None of the statements state the cultivation had been made on the land in question at the behest of the petitioner. On the other hand, materials show that the petitioner during the relevant period was employed at the office of the North Bengal State Transport Corporation at Cooch Behar Town which is some distance away from the place of occurrence. Investigation continued for five years and there is no allegation that the petitioner evaded the process of law. Under such circumstances, as investigation is complete, we are of the opinion that petitioner may be granted pre-arrest bail.

Accordingly, we direct that in the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- 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 conditions petitioner shall meet to the investigating officer once in a week until further orders.

Petitioner shall appear before the court below and pray for regular bail within two weeks from date.

The application being CRM 143 of 2019 is disposed of.

(Rabindranath Samanta, J.)

(Joymalya Bagchi, J.)