

04.03.2022

COURT : 01
ITEM : 26
MATTER : 438
STATUS : ALLOWED
TRANSCRIBER : Saswata

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (A) 114 of 2022

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Jaigaon Police Station Case No. 101/2019 dated 29.05.2019 under Section 22(b) of the NDPS Act, 1985.

And

In the matter of : **Rita Rai**

...Petitioner

Mr. Jaydeep Kanta Bhowmik

...for the Petitioner

Mr. Aditi Shankar Chakraborty, APP

Mr. Biswarup Roy

...for the State

Apprehending arrest, the petitioner has filed the instant application for anticipatory bail in connection with Jaigaon Police Station Case No. 101/2019 under Section 22(b) of the NDPS Act, 1985.

It is submitted by the learned advocate for the petitioner that the petitioner is in no way connected with the commission of offence but the police is chasing him on the statement of the co accused.

Learned advocate for the State submits that the name of the petitioner has been disclosed in the version of the co accused and, therefore, his custodial interrogation is necessary.

After hearing respective submissions and on perusal of the materials from the case diary, it is undeniable that the petitioner's name has been disclosed by a co accused who was apprehended while seizure was made. Since the statement of the co accused made before the police authority is inadmissible in evidence, we, thus do not find that solely on such statement, the arrest is required.

Furthermore, there was no recovery of contraband above commercial quantity from the exclusive or joint possession of the petitioner. In view of the above, the rigor of Section 37 of the NDPS Act is not attracted.

As such, the prayer for anticipatory bail is ***allowed***.

Accordingly, in the event of arrest the petitioner namely **Rita Rai** shall be released on bail upon furnishing a bond of Rs.10,000/-,

with two sureties like amount each, one of whom must be local to the satisfaction of the arresting officer on further condition as enshrined under Section 438(2) of the Code of Criminal Procedure and on further condition that the petitioner shall meet the Investigating Officer as and when called for.

The application being CRM (A) 114 of 2022 is accordingly disposed of.

(Harish Tandon, J)

(Rabindranath Samanta, J)