

17.01.2023
Serial no. 13
[Dd]
(Anticipatory Bail)
(**Partly Allowed**)

CRM (A) 144 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **NDPS** case no. 65 of 2021 arising out of **Dalkhola** Police Station Case No. **183** of **2021** dated **26.08.2021** under Sections **21(c)/27** of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : **Md. Sohel Rana & Anr.**

... .. Petitioners

Mr. Kusal Kr. Mukherjee, Advocate
... .. For the Petitioners

Mr. Binay Panda,
Mr. Subham Bhakat, Advocate
... ..For the State

Police filed charge sheet.

At this, the police are able to demonstrate nexus between the first petitioner and the person arrested with the commercial quantity of narcotics.

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

In such circumstances, the second petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we are inclined to grant anticipatory bail to second petitioner (Saira Bibi).

So far as the first petitioner is concerned, in view of the nexus demonstrated on the basis of the materials in the

case diary, we are of the view that he is unable to rebut the presumption under Section 37 of the NDPS Act, 1985.

Consequently, we are not inclined to grant anticipatory bail to the first petitioner (Md. Sohel Rana).

Accordingly, we direct that in the event of arrest the Second petitioner (Saira Bibi) 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 further condition that the petitioner no. 2 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 no. 2 in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioners is **partly allowed**.

CRM (A) 144 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)