

01.02.2023

Serial no. 22

[Dd]

(Anticipatory bail)

Allowed

CRM (A) 401 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Hili** Police Station Case No. **260** of **2021** dated **18.11.2021** under Sections **17/18/27A** of the Drugs and Cosmetics Act, 1914 (corresponding Special Case NO. 35 of 2022) and charge sheet submitted being Charge sheet no. 225 of 2022 dated 31.10.2022 under Sections 17/18/27A of the Drugs and Cosmetics Act, 1914 and adding Sections 21(c)/22(c)/23(c) of the NDPS Act, 1985.

-And-

In the matter of : **Mafuj Sekh @ Mamud Mondal**

... .. Petitioner

Mr. Kaushik Chowdhury,

Ms. Busra Khatun, Advocates

... .. For the Petitioner

Mr. Arijit Ganguly,

Mr. Sanjib Kr. Dan, Advocates

... ..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 submits that commercial quantity of narcotic was seized from a vehicle standing in the name of the co-accused. Such co-accused could not be arrested. The petitioner was named by the police as a person fleeing away from the spot.

Police filed charge sheet.

The police at this stage are unable to demonstrate any nexus between the petitioner and the seized commercial quantity of narcotics. The vehicle from which the seizure was made does not stand in the name of the petitioner.

In such circumstances, we are of the view that the petitioner is able to overcome the restriction 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 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) 401 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)