

13.02.2023
Serial no. 06
[Dd]
(Anticipatory bail)
Allowed)

CRM (A) 596 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Sagardighi** Police Station Case No. **281** of **2022** dated **02.07.2022** under Sections **21(c)/29** of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : **Zakaria Mollick @ Jakariya Mollock**
... .. Petitioner

Mr. Jisin Iqbal Hossain,
Ms. Chandrima Debnath, Advocates
... .. *For the Petitioner*

Mr. Sudip Ghosh,
Mr. Apurba Kr. Datta, Advocates
... ..*For the State*

The claim for parity with the other co-accused who was enlarged on anticipatory bail by the order dated February 1, 2023 passed in CRM(A) 409 of 2023 is not being disputed on behalf of the State.

The police are proceeding on the basis of the statement of the co-accused made while in custody. Police are, at this stage, unable to demonstrate any nexus between the petitioner and the person arrested with the commercial quantity of narcotics and/or the seized commercial quantity of narcotics.

In such circumstances, we are of the view that the petitioner is able to rebut the presumption under Section 37 of the NDPS Act, 1985.

Police filed charge sheet.

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) 596 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)