

16.03.2023

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Ct. No. 29

CHC

Allowed

C.R.M.(A) 952 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **NDPS** Case No. **10** of **2023** arising out of NCB Crime No.7/NCB/KOL/2023.

And

In the matter of : Tutul Biswas & ors.

..... petitioners

Mrs. Karabi Roy

....for the petitioners

Mr. Arun Kumar Maiti,

Mr. Sagar Saha

....for the NCB

Report as called for by the order dated March 3, 2023 filed in Court be taken on record.

From the report submitted today, it appears that, there are call details recording of conversations between the petitioner nos.2 and 5 with the person arrested with the commercial quantity of narcotics.

In such circumstances, we are of the view that petitioner no.2, namely, Tahajuddin Biswas @ Tahaj Biswas and petitioner no.5, namely, Dudu Mallick @ Dudo Mallick are unable to overcome the restrictions under Section 37 of the N.D.P.S. Act, 1985.

So far as petitioner no.1, namely, Tutul Biswas, petitioner no.3, namely Sultan Khan and petitioner no.4, namely, Panju Mallick are concerned, NCB particularly at this stage are unable to demonstrate any nexus between persons arrested with commercial quantity of narcotics or seized commercial quantity of narcotics.

In such circumstances, we are of the view that petitioner no1, namely, Tutul Biswas, petitioner no.3, namely, Sultan Khan and petitioner no.4, namely, Panju Mallick are able to overcome the restrictions under Section 37 of the N.D.P.S. Act, 1985.

Consequently, we grant anticipatory bail to petitioner no1, namely, Tutul Biswas, petitioner no.3, namely, Sultan Khan and petitioner no.4, namely, Panju Mallick.

Accordingly, we direct that in the event of arrest the petitioner no1, namely, Tutul Biswas, petitioner no.3, namely, Sultan Khan and petitioner no.4, namely, Panju Mallick shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only) each, 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 they will report before the Investigating Officer once in a week till the conclusion of investigation and on further condition that the petitioner no1, namely, Tutul Biswas,

petitioner no.3, namely, Sultan Khan and petitioner no.4, namely, Panju Mallick shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accuseds and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioners in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)