

28.03.2023
Serial no. 06
[Dd]
(Anticipatory bail)
Allowed)

CRM (A) 1114 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Chapra** Police Station Case No. **166** of **2020** dated **17th May, 2020** under Sections **21(C)/29** of the NDPS Act, 1985 relating to case no. NDPS no. 34 of 2020.

-And-

In the matter of : **Basu Ghosh @ Basudeb Ghosh @ Basu**
... .. Petitioner

Mr. Arnab Chatterjee, Advocate
... .. For the Petitioner

Mr. Sanjoy Bardhan,
Ms. Debjani Dasgupta, Advocates
... ..For the State

Petitioner renews the prayer for anticipatory bail.

Prayer for anticipatory bail of the petitioner was rejected on September 28, 2022 passed in CRM(A) 4592 of 2022 on three grounds, namely, long absconsion of the petitioner, issuance of proclamation of attachment and materials in the case diary implicating the petitioner.

Learned advocate appearing for the petitioner submits that, so far as absconsion is concerned, the police case is dated May 17, 2020 and that the petitioner was in custody in another police case till August 10, 2022. The proclamation issued as against the petitioner was set aside by the revisional Court by the order dated March 1, 2023. Petitioner was granted liberty to surrender or take appropriate steps within seven days from the date of the order of the revisional Court. Petitioner filed the present application within such specified time. There is no material in the case dairy implicating the petitioner with the

offence alleged. Police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody.

Learned advocate appearing for the State submits that, so far as the order of revisional Court is concerned, the petitioner did not comply with the same. The petitioner did not surrender before the appropriate Court within 14 days from the date of such order. However, in his usual fairness he submits that, at this stage, police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody.

In such circumstances, there are material change in circumstances subsequent to the order rejecting the earlier prayer for anticipatory bail on September 28, 2022. Proclamation issued as against the petitioner was set aside by the revisional Court on March 1, 2023. Police are unable to establish any nexus between the petitioner and the person arrested with the commercial quantity of narcotics and/or the seized commercial quantity of narcotics.

Police filed charge sheet.

The Court is informed that the police filed a supplementary charge sheet. Jurisdictional Court framed charges as against the accused.

Petitioner took steps in terms of the order dated March 1, 2023 of the jurisdictional Court and filed application for anticipatory bail within the time stipulated therein.

In such circumstances, we are of the view that the petitioner is able to overcome the restrictions 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) 1114 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)