

17.05.2023

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Ct. No. 29
CHC
Allowed

C.R.M.(A) 1878 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Raghunathganj** Police Station Case No. **213 of 2022** dated **12.04.2022** under Sections **21(c)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Charge Sheet no.756/2022 dated 25.09.2022.

And

In the matter of : Mekail Sk.

..... petitioner

Mr. Tapodip Gupta
....for the petitioner

Mr. Swapan Banerjee,
Mr. Anindya Sundar Chatterjee
....for the State

Police filed charge-sheet.

The report as called for by the order dated May 3, 2023, calling upon the State to delineate the nexus if there be any between the petitioner and the person arrested with the commercial quantity of narcotics and/or seized commercial quantity of narcotics.

Report as called for by the order dated May 3, 2023 was filed in Court on May 15, 2023.

The report did not speak about any nexus apart from the statement of the co-accused made while in custody. However, the report stated that there were three police cases as against the petitioner including the present one.

Learned advocate appearing for the petitioner took adjournment on May 15, 2023 to take instruction.

Today learned advocate appearing for the petitioner submits on instruction that, in respect of one of the police cases, the petitioner was enlarged on anticipatory bail by an order dated June 30, 2021.

The petitioner was enlarged on anticipatory bail in a police case involving NDPS Act, 1985.

Other two police cases do not involve NDPS Act, 1985.

In view of the police not being able to demonstrate any nexus between the petitioner and the person arrested with the commercial quantity of narcotics and/or seized commercial quantity of narcotics and the police proceeding against the petitioner on the basis of the statement of co-accused made while in custody, we are of the view that petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985.

Consequently, we 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/-, 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.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)