

11.05.2023

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Ct. No. 29

KAUSHIK

Allowed

C.R.M.(A) 1945 of 2023

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Krishnaganj** Police Station Case No. **341** of **2022** dated **15.09.2022** under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Mithun Mondal & Anr.

..... petitioners

Mr. Prabir Majumder

....for the petitioners

Mr. Saryati Dutta

....for the State

Police filed charge-sheet.

Co-accused was enlarged on anticipatory bail.

The claim for parity with such co-accused is not being disputed on behalf of the state.

At this stage, the police are proceeding against the petitioners on the basis of the statement of the co-accused made while in custody as against the petitioner.

At this stage, the police are unable to demonstrate any nexus between the petitioners and the person arrested with commercial quantity of narcotic and/or seized commercial quantity of narcotic.

In such circumstances, we are of the view that the petitioners are able to overcome the restrictions under Section 37 of the NDPS Act, 1985.

Consequently, we grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- 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 condition that the petitioners 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 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.)