

09.08.2023
SL. 20
Court No. 29
Sourav
(Allowed)

C.R.M. (A) 2899 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kumarganj** Police Station Case No. **54** of **2018** dated **26.03.2018** under Sections **21/22/23** of the NDPS Act.

And

In the matter of: **Mahabur Mondal**

....petitioner.

Mr. Pawan Kumar Gupta
Mr. Subrata Saha
Ms. Sofia Nesar
Mr. Santanu Sett

...for the petitioner.

Mr. Antarikhya Basu

...for the State.

1. Heard learned Counsel for the parties.
2. Considered the materials placed by them, it is fairly submitted at the Bar that the basis of implication of the present petitioner is the statement of the co-accused. We are of the view that the rigours of Section 37 of the NDPS Act is attracted in case of conscious possession only and not precarious possession.
3. Investigation is stated to have completed in the meantime.
4. Regard being had to the facts and submission, factum of permanent residence of the petitioner, nature of allegation, nature of evidence and completion of investigation, it is directed that each of the petitioner shall be released on bail in the event of his arrest by the learned Additional Sessions Judge Cum Special Court under NDPS Act, 3rd Court, Balurghat, Dakshin Dinajpur in Special Case No. 13 of 2018 arising out of the aforesaid P.S. case on such terms and

conditions as deemed just and proper in the facts and circumstances of the case including the conditions that:

i) The petitioner shall appear before the Trial Court on each date of substantive hearing subject to provision of Section 317 Cr.P.C.

ii) He shall not leave the jurisdiction of the Court on a sojourn for more than 15 days without obtaining prior leave of the court in seisin over the matter.

5. The petitioner is directed to appear before the learned Trial Court on or before August 11, 2023 along with a server copy or certified copy of this order.
6. Accordingly, the prayer for the anticipatory bail is allowed.
7. The application being **CRM (A) 2899 of 2023** is disposed of.
8. The learned Trial Court is hereby directed to act upon the server copy of this order, if required.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

