

04.08.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (A) 2980 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 07.07.2023 in connection with Gangarampur Police Station Case No. 594 of 2022 dated 27.12.2022 under Sections 21(c)/22(c)/23(c)/27A/28/29 of the NDPS Act.

And

In Re: ***Saifur Rahaman @ Md. Saifur Rahaman & Ors.***

... .. Petitioners

Ms. Busra Khatoon

... .. for the petitioners

Mr. Swapan Banerjee

Mr. Anindya Sundar Chatterjee

... .. for the State

It is submitted on behalf of the petitioners that no narcotic substance was recovered from their possession. Co-accused have been granted pre-arrest bail. Petitioners stand on the same footing with the said co-accused. Accordingly, they pray for anticipatory bail.

Learned Advocate appearing for the State opposes the prayer for anticipatory bail.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioners and their complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Co-accused have been granted pre-arrest bail. Under such circumstances, we are of the opinion petitioners have been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Hence, we are inclined to grant anticipatory bail to the petitioners.

Accordingly, we direct that in the event of arrest, the petitioners, namely ***(1) Saifur Rahaman @ Md. Saifur Rahaman, (2) Mojlisur Rahaman @ Majilsur Rahaman & (3) Bablu Miah @ Chhoto***

Babu @ Babu Miah, 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioners shall appear before the court below and pray for regular bail within four weeks from date.

The application for anticipatory bail is, thus, disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)