

31.08.2023

SL. 8

Court No. 29

Suvayan

(Allowed)

C.R.M. (A) 3453 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Egra** P.S. Case No. **735 of 2022** dated **13.10.2022** under Sections **20(b)(ii)(c)/29/25** of the NDPS Act pending before the learned Special Judge (NDPS Court), Tamluk, Purba Medinipur.

And

In the matter of: **Ashutosh Karan**

....petitioner.

Mr. Sabir Ahmed

Mr. Somnath Adhikary

...for the petitioner.

Mr. Sanjoy Bardhan

Mr. Ranadeb Sengupta

...for the State.

1. Heard learned Counsel for both the parties.
2. The petitioner is alleged to be the owner of two cars and from one of the car huge amount of contraband was seized. Another car was found to be parked near the first car from which the alleged contraband was seized.
3. From the seizure list it is found that Abdul Wahid Hali who was present at the spot and from whose possession the contraband was seized is the person who had transferred the car from which the contraband was seized in favour of the present petitioner prior to the date of seizure. However, the transfer in the office of the RTO had not yet been done in respect of the said car. So far as the second car is concerned there is no allegation of any seizure from that car. There are statement of two independent witnesses who have stated in their statement recorded under Section 161 Cr.P.C. that they presumed implication of the present petitioner in the entire transaction.
4. Mr. Bardhan, learned Counsel for the State is very much emphatic on the point that the CDR is indicative of the fact that

there has been constant communication between the petitioner and the driver of the car from which the contraband was seized.

5. All these questions can be explained in many ways. The petitioner being the owner of one car and another car having been transferred in his favour it can also be explained that the petitioner was anxious regarding the whereabouts of his car and he might have multiple communication with the driver of the car. The most important factor at this stage is the CDR being an electronic evidence cannot be taken into consideration at this stage.
6. Regard being had to facts and submissions, factum of permanent residence of the petitioner, nature of allegation and completion of investigation, it is directed that the petitioner shall surrender before the learned Special Judge (NDPS Court), Tamluk, Purba Medinipur within 15 days from today in the Spl. case arising out of aforesaid P.S. case. On his appearance and application for bail the petitioner shall be released on bail on such terms and conditions as deemed just and proper in the facts and circumstances of the case including the condition that:
 - i) The petitioner shall appear before the learned Trial Court on each date of substantive hearing subject to the provision of Section 317 Cr.P.C.
7. The learned Special Judge (NDPS Court), Tamluk, Purba Medinipur is directed to act upon the server copy of this order, if required.

8. Accordingly, the prayer for the anticipatory bail is allowed.

9. The application being **CRM (A) 3453 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

