

20.09.2023
ML. 202
Court No. 29
Suvayan
(Allowed)

C.R.M. (A) 3810 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **NCB Crime No. 16/NCB/KOL/2017** and **NDPS Case No. 27 of 2017** dated **08.03.2017** under Section **8(c)** of the NDPS Act and Sections **21(c)/29** of the NDPS Act.

And

In the matter of: **Pintu Safique Laskar @ Pintu Laskar @ Safique Laskar**

....petitioner.

Mr. Sudipto Maitro
Mr. Dipanjan Chatterjee
Mr. Asit Nayek

...for the petitioner.

Mr. Anirban Mitra
Ms. Tanusree Ghosh

...for the U.O.I.

1. Heard learned Counsel for both the parties.
2. The basis of the implication of the present petitioner is admittedly statement of co-accused persons.
3. Mr. Mitra, learned Counsel for the N.C.B. objects to release of the petitioner on bail mainly on two grounds;
 - (i) The quantity of contraband was more than commercial quantity;
 - (ii) Eight criminal cases are pending against the petitioner for offences including the offence under Section 302 IPC.
4. So far as the law is concerned it is no more *res integra* that petition for anticipatory bail may be barred in the discretion of the court if a particular accused has been convicted in any criminal case as per Section 438 (1) (II) Cr.P.C. but pendency of criminal cases is not an absolute bar for seeking liberty under Section 438 Cr.P.C. for a person accused of offence in another case or other cases, if the materials-on-record placed in the subsequent case cannot be crystalised into legal

evidence during trial. It is also well settled that statement of co-accused unless turned approver is almost no evidence in the eye of law and further in case of no seizure of the contraband from the conscious possession of a person and in absence of cogent materials to connect him with the offence alleged, the bar under Section 37 of NDPS Act is not attracted. The conscious possession may be personal or with the active knowledge of the accused.

5. In the present case, however, except the statement of the co-accused there is no other evidence which can be taken into consideration to *prima facie* connect the petitioner with the alleged offence.
6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner, nature of allegation and substantial progress in investigation, it is directed that the petitioner shall be released on bail by the Arresting Officer in the event of his arrest in 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 is directed to appear before the I.O. once in a week on the day and time fixed by the I.O. for the purpose of investigation till submission of F.F.
 - ii) Petitioner shall not leave the jurisdiction of the Trial Court for a period of more than seven days at a time without obtaining prior permission of the Trial Court and this condition shall be effective till conclusion of the Trial.

7. The concerned Arresting Officer is hereby directed to act upon the server copy of this order.
8. Within 21 days from today the petitioner shall appear before the I.O. alongwith a server copy/certified copy of this order. If server copy is supplied, learned I.O. shall act upon that.
9. Accordingly, the prayer for the anticipatory bail is allowed.
10. The application being **CRM (A) 3810 of 2023** is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

