

22.11.2023

SL. 12

Court No. 29

Sourav

(Rejected)

C.R.M. (A) 4022 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Balurghat** Police Station Case No. **260** of **2023** dated **05.04.2023** under Sections **21(c)/22(c)/23(c)/27A/28/29** of the NDPS Act (corresponding to NDPS. Case No. 34 of 2023).

And

In the matter of: **Barman Mina @ Mina Barman**

....petitioner.

Mr. Ashok Das

Ms. Roma Roy

Mr. Sourav Mukherjee

...for the petitioner.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

...for the State.

1. Heard learned Counsel for the parties.
2. Learned Counsel for the State submits a report dated 21.11.2023 as prepared by S.I. Badal Kumar Das, Balurghat P.S. being the I.O. of this case.
3. Let the report be taken on record.
4. Mr. Bardhan, learned Counsel for the State submits before this Court that from the report as submitted today, it reveals that total 447.72 grms of contraband equivalent to 492 ml contraband was seized from the bag as thrown away by the present petitioner to the site of the witnesses when she was chased by the BSF personnel in course of patrolling.
5. Though Mr. Das, learned Counsel for the petitioner submits before this Court that in the seizure there is no independent witnesses but on perusal of the entire materials of the case diary, we do not find any *prima facie* cause to disbelieve the

prosecution case at least at this stage.

6. In our considered view, in the case in hand the petitioner is not successful to overcome the restriction under Section 37 of the NDPS Act and accordingly, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the petitioner especially when the quantum of contraband as seized by the I.O. is more than commercial quantity.
7. Accordingly, the prayer for anticipatory bail is rejected.
8. The application being **CRM (A) 4022 of 2023** is dismissed.
9. Interim protection as granted earlier in favour of the petitioner stands hereby vacated.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

