

13.12.2023
SL. 20
Court No. 29
Sourav
(Rejected)

C.R.M. (A) 4575 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Kaliachak** Police Station Case No. **1134** of **2022** dated **05.10.2022** under Sections **21(C)/27A/29** of the NDPS Act (corresponding to Special Case No. 177 of 2022).

And

In the matter of: **Kalu Sk @ Md Sariful Islam**

....petitioner.

Mr. Milon Mukherjee, Sr. Adv.
Mr. Avinaba Patra

...for the petitioner.

Mr. Swapan Banerjee
Ms. Purnima Ghosh

...for the State.

1. Heard learned Counsel for the parties.
2. Prayer for anticipatory bail is moved on the ground that the accused persons including Kuddus Sk @ Abdul Kuddus have been released on anticipatory bail by this Court. On careful scrutiny of the materials in the CD, we find that the spot house is situated on J.L. No. 158, Dug No. 336 and Dug No. 137 of Mouza Srirampur under Kaliachak Police Station in the District of Malda. The aforesaid plots stand recorded in the name of Miskat Sk @ Enayek Sk, who is admittedly the father of the present petitioner, Kalu Sk @ Md Sariful Islam.
3. The contraband was seized from the kitchen of the aforesaid house though it was in a locked condition and no inmate was there. Admittedly the prayer of regular bail of Miskat Sk @ Enayek Sk, the father of the present petitioner has already been rejected.
4. So far as the present petitioner is concerned, we do not find

any existing ground of parity, so far as other co-accused persons are concerned, especially in view of the fact that other accused persons are relatives or distant relatives of either Miskat Sk @ Enayek Sk or Kalu Sk @ Md Sariful Islam and they were residing in houses situated on other plots and not this spot house. Besides in the c. d. record, there is statement of the witnesses to the effect that the house from which the contraband was seized belongs to the present petitioner and his father and they were ordinarily residing in that house.

5. Learned Counsel for the State further submits that there are record of several past criminal antecedents against the present petitioner.
6. Charge-sheet is stated to have been filed in the meantime.
7. Regard being had to the gravity of the offence which has a greater societal impact, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the petitioner.
8. Accordingly, the prayer for anticipatory bail is rejected.
9. The application being **CRM (A) 4575 of 2023** is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

