

17.01.2023
02
Ct. No. 29
KAUSHIK
Allowed

C.R.M.(A) 5936 of 2022

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Gangarampur** Police Station Case No. **531** of **2022** dated **10.11.2022** under Sections 21(C)/22(C)/23(C)/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In Re : Abdul Miya @ Miah

..... petitioner

Mr. Anindya Ghosh

Ms. Sumita Sarkar

....for the petitioner

Mr. Ranabir Roychowdhury

Mr. Sandip Chakraborty

....for the State

Report as called for by the order dated January 2, 2023 filed in Court be taken on record.

At this stage, the police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody.

At this stage, the police are unable to demonstrate any nexus between the petitioner and the person arrested with commercial quantity of narcotic and/or seized commercial quantity of narcotic.

In such circumstances, we are of the view that the petitioner is able to rebut the presumptions under Section 37 of the NDPS Act, 1985.

Consequently, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, to the satisfaction of the arresting officer and also be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on further condition that the petitioner shall meet the Investigating Officer once a week till the conclusion of the investigation and on condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

This application for anticipatory bail is, thus, allowed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)