

14.06.2023
Court No.01
Item No. 43
Allowed

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

sg

CRM (A) 382 of 2023

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure in connection with Bhaktinagar Police Station Case No. 1121 of 2021 dated 27.08.2021 under Sections 21(b)/22(b)/29 of the NDPS Act.

And

In Re: **Debasish Gharai**

Petitioner

Mr. Anirban Banerjee

For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP

Mr. Biswarup Roy

For the State

The learned Counsel for the petitioner submits that the petitioner is the owner of the motorbike and he has disclosed the document to show that at the relevant point of time, the motorbike was not in possession and control over the petitioner. Moreover, no narcotic substance has been recovered from the petitioner. It is submitted that his name transpired from the statement made by the co-accused.

The learned Counsel for the State, in opposing the prayer for anticipatory bail, submits that he is the owner of the vehicle.

Considering the materials available in the case diary which, prima facie, show that he was not in possession of the motorbike at the relevant point of time and his name was disclosed by the co-accused person during investigation by a Police Officer, we are inclined to hold that the petitioner is able to rebut the presumption under Section 37 of the NDPS Act and he is entitled to grant anticipatory bail.

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, one of whom must be local, subject to the satisfaction of the Arresting Officer and also comply with the conditions as laid down in Section 438(2) of the Code of Criminal Procedure, 1973. The petitioner shall co-operate with the investigation. The petitioner shall not intimidate the witnesses and tamper with the evidence or hamper the investigation in any manner whatsoever. The petitioner shall not leave the jurisdiction without the permission of the learned Court below. The petitioner shall attend each and every date before the learned Trial Court and pray for regular bail within four weeks from date.

Accordingly, the prayer for anticipatory bail of the petitioner is allowed.

CRM (A) 382 of 2023 is, thus, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)