

15.06.2023  
SL No.49  
Court No.1  
(gc)  
(Allowed)

***Circuit Bench of Calcutta High Court  
At Jalpaiguri***

**CRM (A) 406 of 2023**

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Bagdogra Police Station Case No.102 of 2022, dated 15.02.2022 under Section 21(C) of the NDPS Act.

And

In the matter of : **Abhishek Chettri @ Suman Chhetri**

- Petitioner.

Ms. Sidhi Sethia

... For the Petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Kallol Nag

... For the State.

1. The learned Counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated on the basis of the statement of a co-accused which is inadmissible in evidence. However, the petitioner in all fairness has submitted that the earlier application for anticipatory bail was rejected.
2. The learned Counsel for the State, however, opposes the prayer for anticipatory bail.
3. Considering the materials available in the case diary and having regard to the fact that the name of the petitioner transpired from the statement of the co-accused before a police officer which is inadmissible in evidence, the

petitioner is able to rebut the presumption under Section 37 of the NDPS Act. This fact, however, was not brought to the notice on 7<sup>th</sup> February, 2023.

4. Accordingly, we allow the application for anticipatory bail subject to the following conditions:-

i) 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 arresting officer;

ii) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever;

iii) The petitioner shall not leave the station without the permission of the jurisdictional Court;

iv) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer;

v) The petitioner shall attend the trial on every hearing, unless exempted in accordance with law;

vi) The petitioner shall inform the Special Judge, NDPS Court as well as the Officer-in-Charge of the Police Station concerned about his place of residence during bail and trial. Any change in the same shall also be communicated within 48 hours thereafter. Petitioner shall furnish details

of his Aadhaar Card, Telephone Number, E-mail, PAN Card, bank Account Number, if any. The petitioner shall surrender his passport to the learned Trial Court. In the event he does not hold any passport, he shall file an affidavit to that effect before the learned Trial Court;

vii) The petitioner shall not indulge in any criminal activities. It is made clear that in case the petitioner is arraigned as an accused in future in any FIR, then this bail is liable to be cancelled. It is open for the Investigating Agency to move appropriate application in that regard. This shall also be considered as a negative factor for consideration of his future bail application, if any.

5. Accordingly, the application for anticipatory bail is allowed and disposed of.
6. 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.)**