

16.6.2023

Sl. No.26

ar

[ALLOWED]

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

CRM (A) 432 of 2023

In Re: An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 966 of 2022 dated 28.8.2022 under Sections 22(c)/25/28/29 of the NDPS Act,1985.

And

In Re: ***Samad Sk.***

... ... Petitioner

Mr. Sourav Ganguly

... ... for the petitioner

Ms. Aditi Shankar Chakraborty, Ld. APP

Mr. Sagnik Sankar Sikdar

... ... for the State

1.Heard the learned Advocates appearing for the parties.

2.Learned counsel appearing for the petitioner submits that the petitioner is innocent and his name has been falsely implicated merely because he is owner of the vehicle from which contraband articles have been seized.

3.Learned counsel appearing for the State in opposing the prayer for anticipatory bail has submitted that none of the co-accused persons have implicated the petitioner and he has also been named in the FIR. The name of the petitioner has been mentioned in the FIR as he is the owner of the vehicle.

4.Having considered the materials available in the case diary and the fact that the vehicle hired by one North East Roofing Private Limited for delivery of a consignment stated to be corrugated sheets

and the nature of involvement of the petitioner in the commission of alleged offence is not being prima facie established and the petitioner is able to rebut the presumption under Section 37 of the NDPS Act, we are of the view that the custodial interrogation of the accused/petitioner may not be necessary and he may be granted anticipatory bail on the following conditions:-

- i) 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 satisfaction of arresting officer and also 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 in a week till the charge-sheet is filed and co-operate with the investigation and on further condition that the petitioner shall not leave the jurisdiction without the permission of the jurisdictional court and shall surrender before the court below within four weeks from date and pray for regular bail.;
- 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 learned Special Judge, NDPS 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 inform the Special Judge as well as the Officer-in-Charge of the Police Station 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.

5. The application for anticipatory bail is, thus, 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.)