

43. 12.07.2023
Court
No.1 Tanmoy Ghosh

Allowed

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE
CRM (A) 508 of 2023**

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, in connection with **Sitai Police Station Case No. 175 of 2022** dated **01/11/2022** under Section **20(b)(ii)(B)** of the NDPS Act, 1985. NDPS Case No. 129 of 2022.

And

In the matter of: - **Subhash Sarkar**

...petitioner.

Mr. Partha Pratim Sarkar, Adv.,
Mr. Sudip Guha, Adv.
Mr. Sandip Guha Roy, Adv.

...for the petitioner.

Mr. Aditi Shankar Chakraborty, Ld. APP,
Mr. Biswarup Roy, Adv.

...for the State.

The petitioner says that no contraband was recovered from his possession. In any event, he says that intermediate quantity of contraband is involved and not commercial quantity. Therefore, the restrictions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, would not be attracted. He further says that the co-accused person, from whom the recovery was made, has been granted bail by Order No.5, dated December 13, 2022, passed by the learned Additional Sessions Judge, 1st Court, Cooch Behar (NDPS).

We have seen the material in the case diary and heard learned Advocate for the State, who strongly opposes the prayer for anticipatory bail.

Considering that charge-sheet has been submitted after completion of investigation, and the nature and gravity of the charge, we are of the view that custodial interrogation of the petitioner is not necessary so long as he co-operates with further investigation, if any.

Accordingly, in the event of arrest, the petitioner, namely, **Subhash Sarkar**, shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, to the satisfaction of the arresting officer and shall abide by the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, until further orders and on further condition that that the present accused/petitioner shall appear before the learned trial Court on each date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973.

In case the petitioner fails to adhere to any of the conditions mentioned in Section 438(2) of the Code, the learned Court below shall be entitled to cancel the anticipatory bail without further reference to this Court.

The application for anticipatory bail being CRM (A) 508 of 2023 is thus disposed of.

(Arijit Banerjee, J.)

(Partha Sarathi Sen, J.)