

D/L. 9.
September 14, 2023.
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (A) 677 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed on 17.08.2023 in connection with Madarihat Police Station Case No. 193 of 2022 dated 16.11.2022 under Sections 21(c)/25/29 of the NDPS Act, 1985.

And

In the matter of: Rabiul Islam

.... petitioner

Mr. Partha Pratim Sarkar,
Mr. Sandip Guha Roy

... for the petitioner

Mr. Abhijit Sarkar,
Mr. Tapan Bhattacharjee

... for the State

1. Learned counsel for the petitioner argues that the petitioner apprehends arrest on allegations of offences under the NDPS Act on the ground that the contraband articles were seized from the house of the petitioner.
2. However, it is submitted that no article was seized from the person of the petitioner and/or the personal involvement of the petitioner is not *prima facie* established.
3. Learned counsel further places reliance on an order of bail granted to one Amirul Islam @ Lipon Haque @ Anninul Islam, who stands on equal footing as the present petitioner Rabiul.

4. The driver of a vehicle, who was one of the other co-accused, was also granted bail by this court.
5. Learned counsel for the State seriously opposes the prayer for anticipatory bail and submits that charge-sheet has already been filed and the petitioner has not surrendered. That apart, huge commercial quantity of the contraband article was recovered in connection with the present case.
6. We find from a perusal of the order of bail granted to Amirul Islam @ Lipon Haque @ Anninul Islam on June 13, 2023 by a co-ordinate bench, that the said Bench observed that the present petitioner is a co-accused on similar footing as the said Amirul Islam @ Lipon Haque @ Anninul Islam, who has already been enlarged on bail. That apart, bail has also been granted to one other co-accused.
7. However, regarding the other co-accused, we have some reservations since the said co-accused was on a different footing than that of the petitioner, since he was a mere driver of the vehicle and the petitioner allegedly is an owner of the house from which the contraband article was recovered.
8. Be that as it may, keeping in view that at least one co-accused on similar footing having been granted bail by a co-ordinate Bench of this Court, we are of the opinion that similar relief can be granted to the petitioner in the form of anticipatory bail.
9. Hence, CRM (A) 677 of 2023 is allowed, thereby granting anticipatory bail to the petitioner on condition that the petitioner shall satisfy the stipulations in Section 438(2) of the Code of Criminal Procedure.

10. In the event of arrest, the petitioner shall be released on bail upon furnishing bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Jalpaiguri.

11. That apart, the petitioner shall not leave the territorial jurisdiction of the trial court throughout the period of trial without the leave of the said court and shall attend the trial on each and every date.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)