

05.08.2024
Court No.29
Item No. 3

sg

CRM (A) 835 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with Hili Police Station Case No. 145 of 2023 dated 18.08.2023 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act read with section 46A(b) of the Bengal Excise Act.

And

In Re: **Ganesh Roy**

Petitioner

Mr. Kaushik Choudhury
Ms. Busra Khatun

For the Petitioner

Mr. Debasish Roy, Ld. PP
Mr. Jaydeep Biswas

For the State

1. This matter was earlier adjourned in view of pendency of this Special Leave Petition preferred by the State of West Bengal in connection with granting of anticipatory bail to one of the co-accused Rocky Singh @ Biswajit Singh.
2. The Special Leave Petition being Diary No. 20668/2024 was taken up by the Hon'ble Supreme Court on 8th July, 2024. The Special Leave Petition preferred by the State of West Bengal has been admitted and issued notice. The matter was made returnable in two weeks from of that date.
3. The learned Counsel appearing for the petitioner submits that the petitioner stands on the same footing as that of Rocky Singh and in view of the order passed by a coordinate Bench on 22nd November, 2023 allowing the application for anticipatory bail preferred by Rocky Singh and on such same conditions and on parity, the similar relief may be extended to the present petitioner. Moreover, the Hon'ble Supreme Court has not set aside the order passed by the coordinate Bench in connection with that matter. It is further

submitted that having regard to the fact that the present petitioner has been implicated on the basis of the statement of a co-accused, the present application may be considered favourably.

4. The learned Public Prosecutor, appearing on behalf of the State, submits that Rocky Singh, Ganesh and Sandip Kundu had stored the consignment in the house of Sanjay Choudhury as would be revealed from the statement of Roshan Chowhan and Rajesh Gupta, neighbours of Sanjay Choudhury. BSF personnel recovered a consignment of 117 bottles of phensedyl syrup containing codeine phosphate from the house of Sanjay Choudhury who is in custody. Moreover, the submission of the learned Counsel appearing for the State in Rocky Singh (supra) is that there have been several numbers of phone calls between the petitioner and the accused was incorrect as the name of the petitioner transpires from the statement of the neighbours of Sanjay Choudhury who had seen him along with Rocky and Sandip to store contraband materials in the house of Sanjay Choudhury.
5. Considering the materials available in the case diary and in view of the fact that there are eyewitnesses suggesting the illegal storage and dealing with narcotic articles for non-medical purposes by few persons including the present petitioner and having regard to the fact that the possession and use of phensedyl storage containing codeine phosphate for non-medicinal purposes attract provisions of NDPS Act, we are not inclined to grant anticipatory bail to the petitioner. Moreover, the case records reveal criminal antecedence of the present petitioner.
6. Accordingly, the prayer for anticipatory bail of the petitioner is rejected.

(Soumen Sen, J.)

(Uday Kumar, J.)