

20.06.2024
SL No.13
Court No.29
(gc)
(Allowed)

CRM (A) 1901 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Bongaon Police Station Case No.510 of 2023 dated 25.05.2023 under Sections 186/188/353/34 of the Indian Penal Code and Sections 20(b)(ii)(c)/29 of the NDPS Act, 1985.

And

In the matter of : **Aslam Mondal & Ors.**

- Petitioners.

Mr. Uday Sankar Chattopadhyay,
Mr. Santanu Maji

....For the Petitioners.

Mr. Joydeep Biswas,
Mr. Bikram Mitra

... For the State.

1. The learned Counsel for the petitioners submits that the petitioners are innocent and they have been falsely implicated. The learned Counsel for the petitioners has also referred to the order passed by the ASJ, Barasat on November 22, 2023 by which Misanto Ghosh was released on bail.
2. The learned Counsel for the State submits that the petitioners have been named by the BSF Personnel and on that basis they were named in the FIR.
3. Considering the materials available in the case diary, the written complaint and in absence of any explanation that how the complainant could identify the petitioners amongst 150 to 200 villagers including the ladies who alleged to have gathered at the time BSF targeted the house of Misanto Ghosh who alleged to be a smuggler of ganja, we are of the view that the petitioners are able to rebut the presumption under Section 37 of the NDPS Act. Moreover, the charge-sheet has already been filed.

4. Accordingly, we are of the view that the custodial interrogation of the petitioners is not necessary.
5. The order dated 22nd November, 2023 granting bail to the Misanto Ghosh by the learned ASJ, 6th Court, Barasat, North 24-Parganas is kept with the record.
6. Accordingly, we direct that in the event of arrest, the petitioners, namely, **Aslam Mondal, Anour Hosen Mondal @ Anowar Hussain Mondal @ Raju, Sarjat @ Sarajat Mondal, Sahid Mondal @ Laltu and Kabir Dafadar**, shall be released on bail upon furnishing a bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the arresting officer and also subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973. It is further directed that the present accused petitioners shall appear before the learned Additional District and Sessions Judge, 6th Court, Barasat, North 24-Parganas in connection with Bongaon Police Station Case No.510 of 2023 and pray for regular bail within two weeks from date and shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
7. In the event the petitioners fail to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.
8. It is further directed that the petitioners shall not leave the jurisdiction of the trial court without express leave of the trial court and the petitioners shall deposit their passport before the

trial court at the time of their appearance and in the event they do not hold the passport, an affidavit to that effect shall be filed before the trial court.

9. Accordingly, the application for anticipatory bail is disposed of.

10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)