

02.07.2024
Court No.29
Item No. 11

Allowed

sg

CRM (A) 2009 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Balurghat Police Station Case No. 996 of 2023 dated 11.12.2023 under Sections 21(c)/22(c)/23(c)/27A/28/29 of the NDPS Act, pending before the learned Special Court (under NDPS Act)-cum-ADJ, 3rd Court, Dakshin Dinajpur at Balurghat.

And

In Re: **Asim Mali @ Ashim Mali**

Petitioner

Mr. Busra Khatoon

For the Petitioner

Mr. Sujoy Sarkar

For the State

1. The learned Counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the instant case.
2. The learned Counsel for the State, in opposing the prayer for the anticipatory bail, has referred to the CDRS between the petitioner and another co-accused person and submits that, from one of the co accused, a car and mobile phone were recovered. Although the learned Counsel for the State has relied upon the CDRS showing telephonic conversation between the petitioner and one of the co-accused but the contents of such conversation are not known.
3. Considering the materials available in the case diary and the fact that the petitioner was named by a co-accused which is inadmissible in evidence, the petitioner is able to rebut the presumption under Section 37 of the NDPS Act, inasmuch as, the telephonic calls between the petitioner and another co-accused person by itself is not sufficient to implicate the petitioner and having regard to the fact that the charge sheet has already been filed and also in view

of the fact that the petitioner has no criminal antecedent, we are of the view that custodial interrogation of the present petitioner is not necessary.

4. Accordingly, we direct that in the event of arrest the petitioner namely, **Asim Mali @ Ashim Mali**, 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, to the satisfaction of Learned Judge, Special Court under N.D.P.S. Act- Cum ADJ, 3rd Court at Dakshin Dinajpur at Balurghat subject to condition that he 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 or commit similar offences in future.
5. In the event petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
6. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.
7. CRM (A) 2009 of 2024 is, thus, disposed of.
8. The status report filed by the CID is taken on record.
9. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Uday Kumar, J.)