

03.07.2024
SL No.20
Court No.29
TN
(Allowed)

CRM (A) 2071 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Farakka Police Station Case No.481 of 2023 dated 28.12.2023 under Sections 21(C)/29 of the NDPS Act, 1985.

And

In the matter of : **Koushik Sarkar @ Kousick Sarkar.**

- petitioner.

Mr. Soumajit Das Mahapatra,
Mr. S. Adhikary

....for the petitioner.

Mr. Subhomoy Bhattacharya,
Mr. Dipankar Paramanick

... for the State.

1. The learned Counsel for the petitioner submits that the petitioner is a proprietor of Sarkar Enterprise having its valid licence to sell, stock, or exhibit or offer for sale or distribute by wholesale drugs vide GSTIN 19I0APS2655F1ZM under the Drugs and Cosmetics Rules, 1945.
2. However, he has been falsely implicated under the NDPS Act overlooking the said licence and his nature of business.
3. The learned Counsel for the State has produced the case diary. However, it is admitted that the petitioner is having a requisite licence to sell wholesale drugs.
4. Considering the materials available in the case diary which *prima facie* shows that there are reasonable grounds for believing that the petitioner is not guilty of any offence under the NDPS Act, 1985. The petitioner is able to rebut the presumption under Section 37 of the NDPS Act. Moreover, the

charge sheet has already been filed. Accordingly, we are of the view that custodial interrogation of the petitioner is not necessary.

5. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Koushik Sarkar @ Kousick 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 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 petitioner shall appear before the learned Judge, Special Court under NDPS Act –cum- ADJ, 5th Court, Berhampore, Murshidabad.
6. Accordingly, the application for anticipatory bail is disposed of.
7. 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.)