

04.07.2024
SL No.44
Court No.29
(gc)
(Allowed)

CRM (A) 2123 of 2024

In Re:- An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed in connection with Kaliachak Police Station Case No.1508 of 2023 dated 23.11.2023 under Sections 21(c)/27A/29 of the NDPS Act, 1985.

And

In the matter of : **Md Asidul Sekh @ Ashadul Sk**

- Petitioner.

Md. Wasim Akram

....For the Petitioner.

Ms. Z.N. Khan,

Mr. Santanu Deb Roy

... For the State.

1. The learned Counsel for the petitioner submits that the petitioner is named in the FIR. However, his name was subsequently included on the basis of the statement made by the co-accused.
2. The learned Counsel for the State submits that the name of the petitioner transpired from the statement of the co-accused during police custody.
3. Having regard to the fact that the complicity of the petitioner transpired from the statement of the co-accused before a police officer which is inadmissible in evidence, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and, accordingly, we allow this application for anticipatory bail.

4. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Md Asidul Sekh @ Ashadul Sk**, 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 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 also directed that the petitioner shall appear before the learned Judge, Special Court under NDPS Act-cum-Additional District Judge, 3rd Court at Malda in connection with Special Case No.108 of 2023 and pray for regular bail within two weeks from date.
5. It is further directed that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever or commit similar offences in future.
6. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
7. Accordingly, the application for anticipatory bail is disposed of.
8. 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.)