

07.08.2024
Sl No.32
Court No.29
TN

CRM (A) 2550 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973, corresponding to Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Hingalganj Police Station Case No.19 of 2022 dated 06.02.2022 under Sections 20(b)/29 of the NDPS Act, and Sections 14/14C of Foreigners Act.

And

In the matter of : **Nasir Gazi and another**

.... petitioners

Mr. Kallol Kumar Basu,
Mr. Md. Jannat Ul Firdous

....for the petitioners

Mr. Debashis Roy, Ld. PP,
Mr. Bidyut Kumar Ray,
Mr. Aninda Sundar Chatterjee

... for the State

1. Although it appears that the petitioners are standing on the same footing as Shafiqul Gazi @ Safikul Gazi who was allowed anticipatory bail by a coordinate Bench on 30th May, 2024 and the names of the present petitioners transpired from the statement of the co-accused which enabled the petitioners to rebut the statutory presumption under Section 37 of the NDPS Act and as claimed by the petitioners that the quantity involved are intermediary in nature, we could have allowed this application for anticipatory bail but for the proclamation attachment which has been completed on 24.08.2022 the judicial dictum does not permit us to allow this application in view of the aforesaid fact which was not brought to the notice of the coordinate Bench on 30th May, 2024.

2. However, we feel that an interim protection should be granted to the petitioners as we are *prima facie* of the view that they have been able to make out a case for anticipatory bail.
3. No coercive step shall be taken against the petitioners for a period of two weeks from date in order to enable the petitioners to take steps in accordance with law.
4. This application for anticipatory bail is disposed of.

(Soumen Sen, J.)

(Uday Kumar, J.)