

12.08.2024
Sl No.23
Court No. 29
TN
(Allowed)

CRM (A) 2736 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 Hogalberia Police Station Case No.221 of 2023 dated 26.09.2023 under Sections 21(c)/29 of the NDPS Act, charge sheet submitted being charge sheet no. 127 of 2024 dated 09.07.2024 under Sections 21(c)/29 of the NDPS Act.

And

In the matter of : **Baharulla Molla**

.... petitioner

Ms. Shabana Hasin

....for the petitioner

Mr. Atif Ahmed Siddiqui

... for the State

1. The learned counsel for the petitioner submits that the basis of implication of the present petitioner is a statement of a co-accused.
2. The learned counsel for the State has submitted that a motor bike has been seized from the place of occurrence and the petitioner appears to be the owner of the said motor bike. However, nothing could be recovered from the said motor bike. It is further submitted that the petitioner has no criminal antecedent.
3. Regard been had to the fact and the submission, nature of the allegation, nature of offence and the name of the petitioner as transpired from the statement of the co-accused which is inadmissible in evidence, the statutory presumption under Section 37 of the NDPS Act has been rebutted. Consequently, we grant anticipatory bail of the petitioner.

4. Accordingly, we direct that in the event of arrest, the petitioner, namely, **Baharulla Molla** 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, corresponding to Section 482(2) of the BNSS, 2023.
5. It is further directed that the present accused petitioner shall appear before the learned Special Court under NDPS Act, Tehatta, Nadia in connection with NDPS Case No.71 of 2023 within two weeks from date and pray for regular bail.
6. It is further directed that the petitioner shall appear each and every date of hearing before the jurisdictional court on and from the date fixed for appearance of the accused and in default the jurisdictional court will pass appropriate order to secure presence of the petitioner in court including cancelling the anticipatory bail granted 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.)