

13.09.2024
Court No.29
Item No.11

Allowed
sg

CRM (A) 3207 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Code of Criminal Procedure read with Section 482 of the BNSS, in connection with NDPS Cae No. 20 of 2023 arising out of IC's SL No. 42 of 2023-2024 dated 15-02-2023 under section 18(c) of the NDPS Act, pending before the learned Judge, Special Court, under N.D.P.S. Act, 2nd Court, Berhampore, Murshidabad.

And

In Re: **Mirshad Sk @ Mirsad Sk.**

Petitioner

Mr. Golam Nure Imrohi
Md. Sabbir Biswas

For the Petitioner

Mr. Avishek Sinha
Mr. Ratul Ghosh

For the State

1. The learned Counsel for the petitioner submits that the petitioner is innocent and no narcotic substance has been recovered from him. He is no way involved in the cultivation of narcotic substance.
2. The learned Counsel for the State has referred to the inventory of the seized narcotics alleged to have been carried out on the plot of the petitioner. It is further submitted that all the seized crops of opium poppy plants with fruits (806 pieces) have been attached by the Deputy Excise Collector, Lalbagh Range under Section 48 of the NDPS act. The total 46.145 kgs. of opium poppy plants with fruits (green) have been seized from the plot of the petitioner.
3. Considering the materials available in the case diary and if it is presumed that the opium poppy plants with fruits (green) have been seized from the plot of the petitioner in view of the fact it is duly commercial quantity, we are of the

view that the petitioner is able to rebut the statutory presumption under Section 37 of the NDPS Act and accordingly, he may be granted anticipatory bail.

4. Accordingly, we direct that in the event of arrest, the present petitioner, namely, **Mirshad Sk @ Mirsad 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 corresponding to Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita. The petitioner shall meet the I.O. once in a week till the submission of final report and shall appear before the jurisdictional court within two weeks from date.
5. In the event the petitioner fails to comply with any of the conditions as mentioned above, the trial court shall be at liberty to cancel his bail in accordance with law without any further reference to this Court.
6. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.
7. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Prasenjit Biswas, J.)