

09.09.2024
Court No.29
Item No. 45

Allowed
sg

CRM (A) 3175 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 Bhatar Police Station Case No. 31 of 2024 dated 19.01.2024 under Sections 21(c)/29 of the N.D.P.S. Act, pending before the learned Additional District and Sessions Judge, 3rd Court, NDPS Act, Purba Bardhaman.

And

In Re: **Babrabahu Ghosh**

Petitioner

Mr. Sekhar Kr. Basu, Sr. Adv.
Mr. Antarikhya Basu
Mr. Sayan Mukherjee
Ms. Madhumita Basak

For the Petitioner

Ms. Sayanti Santra
Mr. Abhinaba Mukherjee

For the State

1. The petitioner is the owner of a vehicle from which no narcotic substance was recovered. It is alleged that the tracks following the said vehicle were carrying large volume of narcotics. It was on apprehension that the petitioner as an owner of the vehicle could be involved in transporting the narcotics this application for anticipatory bail has been filed. The petitioner has also not named in the FIR. It appears from the record that Abhishek Shaw was granted bail on 7th August, 2024 by a coordinate Bench on a prima facie finding that he was arrested on the basis of his complicity as transpired from the statement of a co-accused before the Police Officer which is inadmissible in law. No legally admissible evidence corroborating the statement has been collected during investigation. The petitioner has disclosed a document which prima

facie shows that the said vehicle was leased to one Rajib Biswas on 2nd January, 2024 for a period of 11 months. The incident occurred on 19th January, 2024. We do not find any incriminating materials against the petitioner in the case diary save and except that he was an owner of the vehicle and no narcotic substance has been recovered from the said vehicle. In view thereof, the petitioner is able to rebut the statutory presumption under Section 37 of the NDPS Act and the petitioner may be granted anticipatory bail.

2. Accordingly, we direct that in the event of arrest, the present petitioner, namely, **Babrabahu Ghosh**, 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 learned Additional District and Sessions Judge, 3rd Court, NDPS Act, Purba Bardhaman 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. as and when required till the submission of the final report. The petitioner shall appear before the learned Additional District and Sessions Judge, 3rd Court, NDPS Act, Purba Bardhaman, within two weeks from date. The petitioner shall appear before the learned trial court on each and every date of hearing until further orders.
3. In the event the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without any further reference to this Court.
4. Accordingly, the prayer for anticipatory bail of the petitioner is allowed.

5. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Soumen Sen, J.)

(Shampa Dutt (Paul), J.)