

26.09.2024
SL No.11
Court No.29
(gc)
(Allowed)

CRM (A) 3345 of 2024

In Re:- An application for anticipatory bail under Section 438 of the Criminal Procedure Code, 1973 read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with Goalpokher Police Station Case No.165 of 2023 dated 08.04.2023 under Section 21(c) of the NDPS Act.

And

In the matter of : **Habibul @ Habib**

- Petitioner.

Mr. Navanil De,
Mr. Srinjan Ghosh

....For the Petitioner.

Mr. Iqbal Kabir,
Ms. Mamata Jana

... For the State.

1. In view of the order passed by a Coordinate Bench in CRM (A) 4393 of 2022 dated 13th September, 2022 and that the petitioner was granted bail on surrender by the ACJM, Islampur, Uttar Dinajpur in respect of an offence under Section 3 of P.D.P.P. Act and thereafter on 20th August, 2024, this Bench has granted anticipatory bail to the present petitioner in connection with another NDPS case in view of the co-accused Nijamuddin was granted anticipatory bail on 6th August, 2024 in CRM (A) 2681 of 2024 and the State did not dispute that the petitioner also stands on the same footing as Nijamuddin, who was granted anticipatory bail and it is not being disputed that the name of the petitioner transpired from the statement of the co-accused during police custody which is inadmissible in evidence in view of Section 25 of the Evidence Act, we are of the view that the present petitioner has

been able to rebut the statutory presumption under Section 37 of the NDPS Act.

2. Accordingly, we direct that in the event of arrest, the petitioner namely, **Habibul @ Habib**, 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 Cr.P.C., 1973 corresponding to Section 482(2) of the BNSS, 2023 and on further condition that the petitioner shall meet with I.O. once in a week till the submission of the final report.
3. It is also directed that the petitioner shall appear before the learned Additional District and Sessions Judge cum Judge (NDPS Act), 1st Court at Raiganj, Uttar Dinajpur in connection with NDPS Case No.14 of 2023 within two weeks from date.
4. It is further directed that the petitioner shall appear on each and every date of hearing before the learned Special Judge under NDPS Act on and from the date fixed for appearance of the accused and in default, the trial Court will pass appropriate order to secure the presence of the petitioner in court including cancelling the anticipatory bail granted without further reference to this Court.
5. It is further directed that the petitioner shall not leave the jurisdiction of District Uttar Dinajpur except for the purpose of meeting the I.O. and/or attending the Court without the express leave of the trial Court.
6. The report filed is kept with the record.
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.)