

27.09.2024
SL No.18
Court No.29
(gc)
(Allowed)

CRM (A) 3461 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 Gangarampur Police Station Case No.13 of 2024 dated 10.01.2024 under Sections 21(C)/22(C)/23(C)/27/28 of the NDPS Act, 1985.

And

In the matter of : **Mahabur Sarkar @ Mahaboore Islam**

- Petitioner.

Ms. Jeena Rudra

....For the Petitioners.

Mr. Atif Ahmed Siddiqui

... For the State.

1. Claiming parity with Murshid Ali @ Mursid Mandal who was granted anticipatory bail in CRM (A) 593 of 2024 on 6th March, 2024, a prayer for anticipatory bail is made on behalf of this accused petitioner. It is submitted on behalf of the petitioner that the name of the petitioner transpired from the statement of one of the co-accused during police custody which is inadmissible in evidence in view of Section 25 of the Evidence Act.
2. The State has opposed the prayer for anticipatory bail.
3. Considering the materials available in the case diary and the case diary *prima facie* does not show any nexus between the petitioner and the person arrested with the commercial quantity of narcotics and/or seized commercial quantity of narcotics and the petitioner does not have any criminal antecedents, we are of the view that the present petitioner has been able to overcome the restrictions under Section 37 of the NDPS Act, 1985.
4. Accordingly, we direct that in the event of arrest, the petitioner namely, **Mahabur Sarkar @ Mahaboore Islam**, 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.

5. It is also directed that the petitioner shall appear before the learned Special Judge (Under NDPS Act)-cum-ADJ, 3rd Court, Balurghat, Dakshin Dinajpur in connection with NDPS Case No.06 of 2024 within 10 days from date.
6. 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 Jurisdictional 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.
7. It is further directed that the petitioner shall not leave the jurisdiction of District Dakshin Dinajpur except for the purpose of meeting the I.O. and/or attending the Court without the express leave of the learned Special Judge under NDPS Act.
8. Accordingly, the application for anticipatory bail is disposed of.
9. 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.)