

18.01.2024

Item No.43(D/L)

Ct.No.29

dc./srm

Allowed

C.R.M. (A) 4657 of 2023

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with NDPS Case No. 201 of 2021 arising out of Customs Case No. 08/NDPS/CL/Ganja/BCPU/CCP/WB/2021-22 dated 18.09.2021 under Sections 20(c)/29 of the NDPS Act, 1985.

And

In Re : **Santana Malik** ... Petitioner.

Mr. Manjit Singh,
Mr. Biswajit Mal ... For the Petitioner.

Mr. Vipul Kundalia,
Ms. Ekta Sinha ... For the Union of India.

Petitioner prays for anticipatory bail.

Customs authorities are proceeding against the petitioner on the basis of statement made by co-accused while in custody.

Petitioner before us, approached the revisional court against orders passed in criminal proceeding. Such revisional application was disposed of by an order dated September 21, 2023 permitting the petitioner to avail of her remedies before the appropriate forum within November 21, 2023.

The present application was filed on October 5, 2023.

In such circumstances, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985 since, customs authorities are not in position to show any nexus, at this stage, between the petitioner and the person arrested with the commercial quantity of narcotics or the seized commercial quantity of narcotics.

Moreover, customs submitted the complaint before the jurisdictional court.

In such circumstances, we grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, 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 and on condition that the petitioner shall appear on every date 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 the presence of the petitioner in court including cancelling the anticipatory bail granted without further reference to this Court.

The application for anticipatory bail is, thus, allowed.

CRM(A) 4657 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)