

21.02.2024
SL No. 36
Ct No. 29
SB

C.R.M. (A) 5673 of 2023

In the matter of: Md. Wasim Akram @ Asim Akram
....Petitioner

Mr. Soumik Ganguly
Mr. Sourat Nandy
Mr. Kaustav Das

...for the Petitioner

Mr. Ranabir Roy Chowdhury
Mr. Anindya Sundar Chatterjee

...for the State

Petitioner renews the prayer for anticipatory bail.

Learned counsel for the petitioner submits that the police filed charge sheet inter alia under Section 27A/29 of the N.D.P.S. Act 1985 after omitting Section 21(C) thereof.

Learned counsel for the petitioner draws the attention of the Court to the order in which co-accused were enlarged on anticipatory bail by a co-ordinate Bench.

We rejected the prayer for anticipatory bail to the petitioners on December 21, 2022 passed in CRM(A) No. 5921 of 2022 after recording the finding that commercial quantity of narcotic was seized from the place in which, the petitioners apparently reside.

Filing of charge sheet subsequent to the order of rejection *per se* is not a change in circumstances.

The moot issue as to whether the petitioner is able to overcome the restrictions under Section 37 of the N.D.P.S. Act, 1985 must necessarily be answered in the negative and as against the petitioners in view of the charge sheet submitted and

the materials in the case diary. Seizure of commercial quantity of narcotics for a place where the petitioner ordinarily resides brings in its wake constructive possession of the petitioner over such seized commercial quantity of narcotics. There being no material change in circumstances subsequent to the earlier order of rejection, we are unable to grant anticipatory bail to the petitioner.

The application for anticipatory bail is rejected.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)