

22.01.2024

DL.87

Court No.29

(AD)

(Allowed)

C.R.M. (A) 5696 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **English Bazar** Police Station Case No. **1720 of 2023** dated **13.10.2023** under Sections **21(C)/25/29** of the NDPS Act in Special Case No.99/2023.

And

In the matter of: **Nayeem Sk @ Nayum**

....petitioner.

Mr. Amitabha Karmakar
Mr. Dhananjoy Banerjee
Mr. Arup Kumar Bhowmik

...for the petitioner.

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta
Mr. Mirza Firoj Ahmmed Begg

... for the State.

Report as called for by the order dated January 4, 2024 filed in Court be taken on record.

Record speaks of a local enquiry made which allegedly reveals that the petitioner is involved in narcotics trade.

Case diary, however, does not contain any statements recorded implicating the petitioner in the trade of narcotics by independent persons.

Police are proceeding on the basis of the statement of co-accused made while in custody.

In such circumstances, we are of the view that the police are unable to demonstrate any nexus between the petitioner and the commercial quantity of narcotics seized and/or the person arrested.

Consequently, the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985.

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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 and on condition that the petitioner will report before the Investigating Officer once a week till the conclusion of the investigation 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.

Accordingly, the prayer for anticipatory bail of the petitioner is allowed.

C.R.M. (A) 5696 of 2023 is, thus, disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)