

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

05.04.2024
Court No.01
rpan/ 32

CRM (A) 272 of 2024

In Re:- An application for anticipatory bail under Section 438 of
the Code of Criminal Procedure;

And

In Re: Nazrul Islam

- Petitioner

Mr. Sudip Guha
...for the Petitioner.

Mr. Nilay Chakraborty, Ld. APP
Mr. Sourav Ganguly
...for the State.

Apprehending arrest in connection with Cooch Behar Kotwali
Police Station Case No.21 of 2023 dated 05.01.2023 under Sections
22(c)/25/29 of the Narcotic Drugs and Psychotropic Substances
Act, 1985, the present application has been preferred.

Mr. Guha, learned advocate appearing for the petitioner
submits that three accused persons, namely, Ekramul Haque @
Akramul Haque, Sanjay Sarkar and Hrishikesh Singha from whom
contraband substance was recovered, had already been granted
bail. In the chargesheet filed thereafter the petitioner's name was
included. No contraband substance was recovered from the
possession of the petitioner. He happens to be the owner of the
truck and in the said conspectus, custodial interrogation may not
be necessary.

The learned advocate appearing for the State denies and
disputes the contention of the petitioner by referring to several
documents in the case diary.

Prima facie, it appears that there was no recovery of any contraband substance from the petitioner, who is the owner of the vehicle which is used for commercial purposes and as such, it cannot be said that the petitioner was even having any conscious possession of contraband substance. From the order of the co-ordinate Bench passed in the case of one arrested accused person, namely, Ekramul Haque @ Akramul Haque, it appears that the Court arrived at a *prima facie* finding that there was violation of provision of Section 52A of the NDPS Act.

We have perused the materials in the case diary including the statements of the witnesses and assessed the role of the petitioner. Upon such cumulative assessment, we are *prima facie* of the opinion that the petitioner has been able overcome the rigors of Section 37 of the NDPS Act.

Accordingly, we direct that in the event of arrest the petitioner, namely, **Nazrul 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 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 with further conditions that he shall meet with the Officer-in-Charge of the Cooch Behar Kotwali once a fortnight till the charges are framed and shall also attend the learned trial court below on all the dates as fixed for hearing.

It is further directed that the petitioner shall not influence the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

The application for anticipatory bail, being CRM (A) 272 of 2024, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Biswaroop Chowdhury, J.)

(Tapabrata Chakraborty, J.)