

08.05.2025
Court No.28
Item No.6
tbsr
Allowed

CRM (A) 1248 of 2025

In Re: - An application for anticipatory bail under Section 438 of the Criminal Procedure Code/482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with **Bhagwangola** P.S. Case No.**393 of 2024** dated **02.08.2024** under Section **111** of the Bharatiya Nyaya Sanhita, 2023 and Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: **Yousuf Sk. @ Yousuf Ali @ Iusuf Ali**

....Petitioner.

Mr. Tapodip Gupta
....for the petitioner.

Mr. Ranadeb Sengupta
Mr. Raju Mondal
.....for the State.

Report filed on behalf of the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits that the only material available in the case diary against the petitioner is the statement of a co-accused. Similarly circumstanced co-accused was granted anticipatory bail by a Division Bench of this Court on 01.02.2024 in CRM (A) 5361 of 2023.

Learned counsel appearing on behalf of the State submits that it does not appear whether the issue of criminal antecedents came up before the Division Bench on that day. It is the fact that the co-accused who was granted anticipatory bail as well as the present accused had criminal antecedents.

It is true that there is no reflection in the order of the Division Bench whether the issue of criminal antecedent of the petitioner therein was placed before the Court.

However, since the petitioner is otherwise standing on the same footing in as much as there is no other materials available in the case diary against the petitioner except for the statement of a co-accused, he has been able to rebut the restriction contained in Section 37 of the NDPS Act. Therefore, I am inclined to grant anticipatory bail to the petitioner.

In the event of arrest, the petitioner 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 be subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure, 1973 corresponding to Section 482(2) of the BNSS, 2023 and on further condition that the petitioner shall not threaten or intimidate witnesses and shall surrender before the learned trial Court within four weeks and pray for bail and shall attend the jurisdictional Court on date fixed.

The application for anticipatory bail is, thus, allowed.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)