

01/09/2025

M/L 45

Ct. No.28

S.Kundu

Allowed

C.R.M.(A) 2687 of 2025

In Re:- An application for anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023/under Section 438 of the Code of Criminal Procedure. In connection with Kaliachak P.S. Case no. 167 of 2025 along with PTN no. 113 of 2025 dated 5.2.2025 under sections 21(c)/27A/29 of the NDPS Act.

In the matter of: **Habibuddin Momin**

... Petitioner

Mr. Joy Chakraborty

Mr. Sandip Dinda

...for the petitioner.

Mr. Bibaswan Bhattacharyya

Mr. Rahul Ganguly

...for the State.

1. Learned counsel appearing for the petitioner submits that there are no other criminal incriminating materials available against the petitioner apart from the statement of a co-accused, which is not admissible in evidence.
2. Learned counsel appearing for the State files a report, which is taken on record and relies on the case diary and the report. He submits that other than the statements of the co-accused, there are phone calls between a co-accused Riajuddin and the present petitioner. However, no phone calls were made between the person from whom the contraband was seized and the present petitioner or the said Riajuddin.

3. So, effectively there is a phone call between the two similarly circumstanced co-accused against whom the only material available were statements of co-accused.
4. In view of the above and the fact that the only other material available against the petitioner is the statement of a co-accused, the petitioner has been able to rebut the restrictions contained in Section 37 of the NDPS Act and considering the materials available in the case diary, I am inclined to grant anticipatory bail to the present petitioner.
5. In the event of arrest, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- each 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 further conditions that the petitioner shall cooperate with the investigation and shall not threaten or intimidate witnesses. The petitioner shall meet the I.O once a week till submission of report in final form.
6. Accordingly, the instant application for anticipatory bail is allowed.
7. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with requisite formalities.

(Jay Sengupta, J.)