

14.08.2025
Item No.13
Ct. No. 446
PG

C.R.M.(A) 2748 of 2025

In Re:- An application for anticipatory bail under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Domjur** Police Station Case No. **209** of **2025** dated **02.04.2025** under Sections **20(b)(ii)(C)/29** of the Narcotic Drugs and Psychotropic Substances Act, pending before the learned Additional District Judge, 3rd Court (Special Court under NDPS Act) at Howrah.

And

In the matter of : Biki Chowdhury

..... petitioner

Mr. Milan Mukherjee, Sr. Adv.
Mr. Joydeep Biswas
Mr. Ashok Das
Ms. Hasi Jana

....for the petitioner

Mr. Ranadeb Sengupta
Mr. Subhasish Datta

....for the State

1. Learned senior counsel Mr. Milan Mukherjee appearing on behalf of the petitioner submits that the present petitioner is innocent and has been falsely implicated in this case.
2. He further submits that Prosecution has unable to show any involvement of the present petitioner, who was not present at the premises also on the relevant time and date when the alleged search and seizure took place.
3. It is further pointed out that the principal accused from whom the contraband was found was not inside the room

but on a road before entering into the alleged room, which is very apparent in the written complaint.

4. It is further pointed out that the seizure list reveals that the articles were seized from the possession of one Dinesh Chowdhury. Furthermore, the search list regarding the search, which is conducted between 18.25 hrs. and 18.45 hrs. inside the room of the present petitioner reveals that nothing was found in respect of narcotic substances.
5. The learned senior counsel relied upon the decision of the Hon'ble Supreme Court in **Shri Gurbaksh Singh Sibbia & Ors. v. State of Punjab: (1980) 2 SCC 565** and submitted that unlike some other special Acts, in the NDPS Act, there is no specific bar of not considering the application for anticipatory bail.
6. The learned Prosecution raises strong objection and specifically submitted that on the basis of source information, the raid was conducted. There is arrest memo showing the person Dinesh Chowdhury from whom some contrabands were found inside the room of the present petitioner. That apart, there exists certain incriminating materials, which supports the prosecution case. The quantity involved is commercial quantity.
7. The learned Prosecution has relied on two decisions of the Hon'ble Supreme Court in the case of **1) State by the**

Inspector of Police vs. B. Ramu : 2024 SCC OnLine SC 4073 and 2) Satpal Singh vs. State of Punjab : (2018)

13 SCC 813. It is further submitted that there is a specific bar of section 37 of the NDPS Act and in case of commercial quantity and in view of the entire facts and circumstances, the custodial interrogation in this case is essential.

8. Having heard both the learned counsels and carefully considering the materials available in the case diary and the contents of the written complaint, prima facie it appears that the contraband seized is of commercial quantity, so the provisions of section 37 of the NDPS Act comes into play while considering the anticipatory bail.
9. It is the mandate of the Hon'ble Supreme Court that while considering the anticipatory bail, the Court may not go into the detailed analysis of the evidence, which may prejudice the trial; rather, the balance is to be maintained regarding personal liberty of the applicant with the social interest in curbing the drug menace.
10. Considered the decisions, as relied upon by the learned Prosecution, where the order of anticipatory bail granted by the High Court was turned down by the Hon'ble Supreme Court in view of the specific bar of section 37 and considering the facts and circumstance. In the instant case, there a statement of witness under

section 180 of BNSS other than co-accused, which supports the prosecution case involving the house wherefrom the contraband is seized.

11. Needless to say that the written complaint contains certain discrepancies in giving the detailed description of the person or persons but when the investigation is still going on and the quantity involved is of commercial quantity and certain incriminating materials are found against the present petitioner, which do not rule out the possibility of involvement of the petitioner in this case, more so on the basis of which this Court cannot be satisfied that there are reasons to believe that the accused is not guilty of the alleged offence, this Court is of the opinion that granting anticipatory bail at this stage will have an adverse effect in the process of investigation. Hence this Court is not inclined to allow such prayer.

12. So the prayer for anticipatory bail stands rejected.

(Chaitali Chatterjee (Das), J.)

