JPD-21
Ct No.07
25.11.2026
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (A) 822 of 2026

In Re: - An application under Section 482 of BNSS, 2023 in connection with Kotwali Police Station Case No. 531 of 2025 dated 25.09.2025 under Sections 21(c)/29 of NDPS Act, 1985, corresponding to NDPS Case No.18 of 2026.

And

In the matter of: Habek @ Habib Islam

…. petitioner

Mr. Joydeep Kanta Bhowmik,
Ms. Debi Sarkar,
Ms. Priti Das,
Ms. Moumita Shome

… for the petitioner

Mr. Avrojyoti Das, Ld. APP,
Mr. Bijoy Bikram Das,
Ms. Rajyashree Ghosh

… for the State

1. Learned counsel for the petitioner argues that the foundational facts for giving rise to a presumption under the NDPS Act have not been satisfied in the present case, inasmuch as the petitioner was not found at the spot of recovery of the contraband material, nor has any money trail been traced to the petitioner or any call records been produced to implicate the petitioner in the alleged offence.

2. Learned counsel places reliance on the judgment of the Hon'ble Supreme Court in *State By (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.,* reported at *2022 LiveLaw (SC) 69,* where

the Hon'ble Supreme Court placed reliance on the judgment rendered in *Tofan Singh vs. State of Tamil Nadu [(2021) 4 SCC 1]* to the extent that voluntary statements of co-accused persons cannot form the basis for refusing bail to an accused person.

3. Learned counsel for the State opposes the prayer for anticipatory bail.

4. However, from the case diary, which is handed over in Court and returned to learned counsel for the State after perusal, it transpires that there is absolutely nothing on record, apart from the statements of two co-accused persons who were allegedly found with the contraband material, to connect the petitioner with the alleged offence. As such, the preliminary presumption under the NDPS Act cannot be applied to the petitioner at all. Thus, the petitioner, in the opinion of the Court, is entitled to anticipatory bail.

5. Accordingly, CRM (A) 822 of 2026 is allowed, thereby granting anticipatory bail to the petitioner.

6. In the event of arrest, the petitioner shall be enlarged on bail upon furnishing bond of Rs.5,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), Jalpaiguri. The petitioner, furthermore, shall not in any manner make any inducement, threat or promise to any person acquainted with the facts and circumstances of case so as to dissuade such person

from disclosing such facts to any police officer or the court and/or tamper with evidence.

7. The petitioner shall not leave the territorial jurisdiction of his residential police station and shall attend the trial on each and every date of the same.

(Sabyasachi Bhattacharyya, J.)