

SL. 173.
October 29, 2021.
MNS/AD

CRM 4729 of 2021

(Via Video Conference)

In Re : An application for anticipatory bail under section 438 of the Code of Criminal Procedure filed on July 12, 2021 in connection with Hilli Police Station Case No. 03 of 2020 dated January 4, 2020 under Sections 411 and 414 of the Indian Penal Code read with Section 21(C), Section 22(C), Section 23(C) and Section 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Charge Sheet filed under Sections 21(c)/22(c)/23(c)/25/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

In the matter of : Ahinur Ali Mondal

... petitioner

Mr. Avishek Prasad,
Ms. Ankita Dey

..... for the petitioner.

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee

..... for the State.

Learned counsel for the petitioner contends that other co-accused have already been enlarged on bail, who were on the same footing as the petitioner, as far as the allegations are concerned.

Learned counsel for the petitioner further contends that a previous application for anticipatory bail was dismissed on the technical ground of being misconceived and the said order of dismissal did not touch the merits of the matter at all.

In the present case, the alleged offence is under the Narcotic Drugs and Psychotropic Substances Act, 1985 read with other provisions of the Indian Penal Code.

Upon hearing learned counsel for the petitioner as well as for the State, it is evident from the record that no quantum

of contraband substance was recovered from the petitioner, nor was he directly connected with the events which led to the alleged offence. As such, we are of the opinion that no *prima facie* credible case has been made out against the petitioner for the purpose of attracting the presumption under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at this stage. However, it is made clear that above findings are restricted to the consideration of the present application and it shall be open for the trial court to proceed on its independent footing without being prejudiced in any manner by any of the present observations.

We are of the opinion, on the basis of the records, that the petitioner is entitled to the benefit of anticipatory bail.

Accordingly, CRM 4729 of 2021 is allowed, thereby granting anticipatory bail to the petitioner, namely, Ahinur Ali Mondal, on the following terms and conditions:

- (i) In the event the petitioner is arrested, he shall be released immediately upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Arresting Officer;
- (ii) The petitioner shall not make out any inducement, threat or promise, directly or indirectly, to any person having direct knowledge of the incident so as to dissuade such person from disclosing the facts before any police officer or Court of law

and/or tamper with evidence in any manner whatsoever; and

- (iii) The petitioner shall not leave the territorial jurisdiction of the Hilli Police Station.

The parties as well as the authorities shall act on the written communication of the learned Advocates for the parties, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Aniruddha Roy, J.)