

28.02.2023
Serial no. 18
[Dd]
(Anticipatory bail)
Allowed)

CRM (A) 748 of 2023

In re : An Application for **Anticipatory Bail** under Section **438** of the Code of Criminal Procedure in connection with **Belgharia** Police Station Case No. **658** of **2021** dated **18.09.2021** under Sections **21(c)** of NDPS Act.

-And-

In the matter of : **Aehrar Ahmad @ Tomator**
... .. Petitioner

Mr. Debasis Kar,
Mr. Amanul Islam,
Mr. Sourav Mukherjee, Advocates
... .. *For the Petitioner*

Mr. Swapan Banerjee,
Mr. Suman De, Advocates
... .. *For the State*

Report as called for by the order dated February 20, 2023 filed in Court be taken on record.

It appears from the report that, statements recorded under Section 161 of the Criminal Procedure Code of witnesses, claim that they came to learn from the co-accused who is in custody that the petitioner is involved in the incident.

The materials in the case diary suggest that the police are proceeding against the petitioner on the basis of the statement of the co-accused made while in custody. Evidentiary value of such statements implicating the petitioner can be debated.

In such circumstances, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the NDPS Act, 1985.

Police filed charge sheet.

Consequently, we are inclined to grant anticipatory bail to the petitioner.

Accordingly, we direct that in the event of arrest the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties of like amount each, 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 and on further condition that the petitioner shall appear on every date before the jurisdictional Court on and from the date fixed for appearance of the accused and in default the jurisdictional Court will pass appropriate order to secure the presence of the petitioner in Court including cancelling the anticipatory bail granted without further reference to this Court.

Prayer for anticipatory bail of the petitioner is **allowed**.

CRM (A) 748 of 2023 is disposed of.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)