

09.09.2020

p.b.
Ct. No.16

CRM 5988 of 2020
CRAN 4436 of 2020

(via video conference)

In re:- An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Balurghat Police Station Case No.193 of 2020 dated 9th June, 2020 under Sections 21(c)/22(c)/23(c)/27A/28/29 of the NDPS Act, 1985.

In re: Chhoton Mahanta @ Chaton.

.....Petitioner

Ms. Arushi Rathore.

.....for the petitioner.

Ms. Sukanya Bhattacharyya,

Mr. Md. Kutubuddin.

.....for the State.

Learned advocate appearing on behalf of the petitioner submits that simply because the petitioner has been implicated in an offence under N.D.P.S. Act, the learned court below has refused to grant bail although nothing was seized from the custody of this petitioner.

Learned advocate appearing on behalf of the State submits that the contraband articles were seized from the godown of the petitioner but 148 number of bottles were seized from the custody of the co-accused. As it was revealed from the seizure list (page 3 of the C.D.) which was seized from the custody exclusively from the possession of a co-accused.

After perusal of the materials placed before us including the seizure list revealing the seizure of 148 bottles of phensedyl although in excess of commercial quantity but the same has been admittedly recovered not from the possession of this petitioner but from the exclusive possession of a co-accused and immediately thereafter this petitioner was arrested.

Learned advocate for the State further submits that this petitioner has been detained in judicial custody only on the basis of the statement made by a co-accused contrary to the principle under Section 27 of the Evidence Act. Since the petitioner is in custody for more than 80 days, no further custodial interrogation is deemed necessary.

Accordingly, we direct that the petitioner be released on bail upon furnishing a bond of Rs.20,000/- with two sureties of like amount, one of whom must be local to the satisfaction of the arresting officer on condition that the petitioners shall not tamper with the evidence. The petitioner shall meet the Investigating Officer once a fortnight until further orders.

CRM 5988 of 2020 and CRAN 4436 of 2020 are disposed of.

(Kausik Chanda, J.)

(Sahidullah Munshi, J.)

