

04.09.2020
Item No.03 (S.L.)
Dc/Aj.
Rejected

C.R.M. 6177 of 2020
C.R.A.N. 1 of 2020 (Old No. C.R.A.N. 4686 of 2020)
(Through Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No. 31 of 2020 corresponding Bhaktinagar Police Station Case No. 433/2020 dated 31.05.2020 under Sections 21(c) of the NDPS Act, 1985.

And

In the matter of : Vibek Chhetri & Ors. ... Petitioners.

Mr. Jaydeep Kanta Bhowmik. ... For the Petitioner.

Mr. Sourav Ganguly. ... For the State.

Petitioners undertake to affirm and stamp the petition/application as per Rules within one month of resumption of normal functioning of the Court. Subject to such undertaking, the application is taken up for hearing through video conference.

The learned advocate for the petitioners submits that the petitioner nos. 1 and 2 are similarly placed and petitioner no.3 is differently placed as the recoveries were separate and the investigating authorities attempted to show the seizure so as to bring them within the ambit of recovery of contraband of commercial quantity.

The learned advocate for the State opposes the prayer for bail and submits that commercial quantity of phensedyl was recovered from the petitioner nos. 1 and 2 and other contrabands were recovered from the petitioner no.3

(although the same was of intermediate quantity). The learned advocate for the State further submits that they were jointly available in a vehicle and as such there is constructive possession in commission of the offence which would reflect from the seizure list.

In view of the recovery being effected at the time of seizure, petitioner no.3 cannot be distinguished from petitioner nos. 1 and 2 so far as the provision of Section 29 of the NDPS Act is concerned. Accordingly, the prayer for bail of the petitioners is rejected.

CRM 6177 of 2020 and CRAN 4686 of 2020 are disposed of.

(Tirthankar Ghosh, J.)

(Samapti Chatterjee, J.)