

21.10.2020
Item No. 3
Ct.12
FB/G. S. Das

C.R.M. No.6423 of 2020
With
CRAN 1 of 2020

(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure in connection with N.D.P.S. Case No. 11 of 2017 pending before the Learned Bench-1 at the City Sessions Court, Kolkata for trial into charge punishable under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs Psychotropic Substance Act, arising out of Burtolla Police Station Case No. 41 of 2017 dated 23.02.2017.

And

In the matter of:-

Anil Das

... Petitioner

Mr Debasish Roy
Mr. Ayan Banerjee
Mr. Omar Faruk Gazi

.. for the petitioner

Mr. Arijit Ganguly
Mr. Sanjib Kr. Dan

..for the State

The petitioner undertakes 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.

We have heard the Learned Advocate for the petitioner and the State-prosecution.

Accused Anil Das was arrested in connection with Burtolla P.S. Case No. 30/2017 on 13th February, 2017 on the allegation that some narcotic substance, commercial in quantity, was

recovered from him. Subsequently, on 18th February, 2017 a prayer was made on behalf of the Investigating Officer for interrogation of the accused Anil Das. The said prayer was allowed on 4th March, 2017 by the Learned Special Judge, Bench-I, Calcutta. While the accused was in custody of police, the subsequent Burtolla P.S. Case No. 41 of 2017 was registered and he was shown arrested in that case.

According to the prosecution, on March 9, 2017 commercial quantity of narcotic substances were recovered.

It is urged by the Learned Counsel for the petitioner that since the accused was in custody in connection with the previous case, there is no scope for him to possess any narcotic substance on the date of alleged recovery in the instant case. Therefore the entire allegation is concocted and the petitioner should be enlarged on bail.

Learned P.P. in charge on the other hand has pointed out that Burtolla P.S. Case No. 41/17 was registered on 23rd February, 2017 with the arrest of one Sk. Shamsher Alam having possession of 1 kg of *charas*. Subsequently, the involvement of the present accused transpires and he was taken into the custody by the Investigating Officer in connection with this case.

It is found from the C.D. that while in custody of police, the petitioner made a statement and, in pursuance to such statement he led the Investigating Officer to a ground floor room and on his identification commercial quantity of narcotic substance was recovered.

Considering such aspect of the matter and in view of the fact that the petitioner *prima facie* is involved in a big racket of procuring and selling narcotic substance, we are not inclined to release him on bail. The prayer for bail is, therefore, **refused**.

It is submitted by the Learned Counsel for the petitioner that the trial of this case has already been commenced and four witnesses have already been examined out of total 12 witnesses.

The Learned Trial Judge, Special Court, NDPS is requested to take up the hearing of the case peremptorily after reopening of the Court after vacation and take all steps to conclude the recording of the evidence and hearing of the case within six months from the date of resumption of the trial after reopening of the Court.

CRM 6423 of 2020 and CRAN 1 of 2020 are disposed of.

All parties shall act in terms of copy of this order downloaded from the official website of this court.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties, subject to convenience with all requisite formalities.

(Bibek Chaudhuri, J.)

(Subrata Talukdar, J.)