

6 Court 8
sg 16-09-2020

C.R.M. 6526 of 2020
IA No. 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 Sahebganj Police Station Case No. 191 of 2020 dated 03.05.2020 under sections 21(c)/22(c) of the N.D.P.S. Act.

Allowed

Latifa Khatun
Versus
State of West Bengal

Mr. Sabir Ahmed, Adv.
Mr. Apan Saha, Adv.
Mr. S. Sarkar, Adv.

...for the petitioner.

Mr. Nilay Chakraborty, Adv.
Mr. Aniruddha Biswas, Adv.

...for the State.

The petitioner undertakes to affirm and stamp the petition/application as per the Rules within one month of resumption of normal functioning of the Court. The petition is taken up through video conference on the basis of such undertaking.

Accordingly, CRAN 1 of 2020 is disposed of.

Learned Counsel appearing on behalf of the petitioner submits that the petitioner and her husband were found on a motorcycle near the Bangladesh border apprehended. On being accosted, the petitioner's husband fled away the motorcycle and his wife. A commercial quantity of contraband was seized from the motorcycle. At that time, the petitioner was carrying six months. While in custody, the petitioner gave birth to a baby girl who is not keeping well at present. The petitioner did not have a conscious possession of the contraband. She had no idea that she was being used as a decoy by her husband. Her husband did not surrender afterwards.

Learned Counsel for the State opposes the prayer for bail and submits that all formalities and legal requirements for seizure of contraband were

satisfied in respect of the seizure of articles from the present petitioner. Due care is being taken by the petitioner and her child in the jail hospital.

It is true that the husband of the petitioner could not be apprehended. However, from the sequence of evidence, we feel that there is a distinct possibility that the present petitioner might not have known about the contraband articles, which were being carried in the motorcycle by her husband.

In view of the above, we are of the view that the petitioner has been able to rebut the statutory restriction under Section 37 of the N.D.P.S. Act and in view of the custody already suffered by the petitioner and considering the fact that she has a new born child in her lap, we grant bail to the petitioner.

Accordingly, we direct that 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, one of whom shall be local, to the satisfaction of the learned Special Judge under NDPS Act, at Cooch Behar, on condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall not leave the jurisdiction of Cooch Behar without expressed leave of the learned court below. The petitioner shall provide the address where she shall presently reside to the investigating officer.

In the event, the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail without further reference to this Court.

The application for bail is, thus, allowed.

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

(Jay Sengupta, J.)

(Soumen Sen, J.)

