

16.09.2020
Suman/
Mithun
Sl. No.19
Ct.No.11

CRM 6619 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, 1973.

In the matter of : Raju Gupta. ... Petitioner.

Husen Mustafi,

... for the petitioner

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan,

... for the State

The learned Advocate for the petitioner submits that in connection with Jagaddal P.S. Case No. 160 of 2019 dated 14.02.2019 under Section 21(c) of the N.D.P.S. Act trial has already been commenced. In the charge sheet it is alleged that the petitioner along with another person were found in possession of 5 liters of codeine mixture. During evidence in the trial different witnesses stated differently regarding the amount of contraband substance which was allegedly recovered from the joint possession of the petitioner and another person. Therefore, the petitioner prayed for bail before the trial Court and considering all such contradictions the learned P.P.-in-Charge did not oppose the prayer for bail of the petitioner in spite of such circumstances, the

learned trial Judge rejected the prayer for bail. So, the petitioner has appeared before this Court to renew the same prayer.

Learned Advocate for the petitioner also draws our attention to Section 37 of the N.D.P.S. Act where it is specifically stated that the prosecution must be given opportunity to oppose the prayer for bail only when the prayer for bail is opposed the same may be refused .

It is to be borne in mind that we are not taking up the appeal against the order passed by the learned trial Judge. On the other hand, we are having concurrent jurisdiction under Section 439 of the Cr.P.C. with that of the trial Court.

Before us the learned Advocate for the prosecution has seriously opposed the prayer for bail. Though some of the witnesses stated during evidence differently regarding the quantity of the Narcotic substances, in both cases the amount is within commercial quantity.

Considering such aspects of the matter and in view of the fact trial is going on, we are not releasing the petitioner on bail. The prayer for bail is, thus, refused.

Trial of the case be expedited.

The application for bail being CRM 6619 of 2020 and CRAN 1 of 2020 are disposed of.

(Samapti Chatterjee, J)

(Bibek Chaudhuri, J)

