

14-10-2020
k.b./b.r.
Item no.10
rejected
Crt.12

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M. No. 6894 of 2020

Sintu Barman

-vs-

The State of West Bengal
(Via video conference)

In Re: An application for bail under Section 439 CrPC in connection with NDPS Case No. 88 of 2018, arising out of Dinhata PS Case No. 448 of 2018, dated 02.12.2018 under Sections 21 (c) of the NDPS Act, 1985.

Ms. Suman Sehanabis

...for the petitioner.

Mr. Biswarup Roy
Mr. Aditi Sankar Chakraborty

... for the State.

The advocate-on-record for the petitioner undertakes to affirm and properly stamp the petition 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 undertakings.

It is submitted on behalf of the petitioner that the petitioner is in custody for about 673 days in connection with the abovementioned NDPS Case where it is alleged that the commercial quantity of narcotic substance (phensedyl syrup) was recovered from a vehicle of which the petitioner is the owner. According to the learned advocate for the petitioner, the charge sheet has been submitted in this case. Trial of this case could not be commenced as co-accused has absconded. At least on two occasions the learned Special Court issued warrant of arrest against the absconding accused, but the police failed to execute the same. It is also submitted by the learned advocate for the petitioner

that search and seizure of contraband articles were not conducted in compliance of Section 50 of the NDPS Act. Therefore, the petitioner is entitled to be released on bail.

Learned Public Prosecutor on the other hand has vehemently objected and submits that in the instant case charge sheet has already been filed. Prima facie case has been established against the petitioner. Therefore, he should not be released on bail.

Having heard the learned advocate for the petitioner and the State and on careful perusal of the entire materials on record, we are of the view that the commercial quantity of narcotic substance was recovered from the petitioner. Whether the seizure of contraband articles was made in accordance with law or not, is a question of trial. However, at this stage, considering the extent of complicity of the petitioner, we are not inclined to release him on bail.

At the same time we direct the learned Special Court, Cooch Behar to segregate the case record as against the absconding accused and commence the trial against the petitioner at the earliest.

The learned Special Judge shall take all endeavour to examine the charge sheeted witnessed within six months from the date of commencement of trial.

Let a copy of this order be sent to the learned Special Judge, Cooch Behar (NDPS) through the learned Registrar General, High Court.

[Bibek Chaudhuri, J.]

[Subrata Talukdar, J.]

