

30.09.2020.
Item No. 6
(Rejected)

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C.R.M. 7027 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Md. Bazar P.S. Case No. 02 of 2020 dated 05.01.2020 under Section 20(b)(ii)C of the Narcotic Drugs and Psychotropic Substances Act, 1985;

And

In the matter of : **Sumanta Das @ Suman.**

... petitioner.

Mr. Koustav Bagchi.

...For the petitioner.

Mr. P. K. Datta, Ld. APP,
Mr. Santanu Deb Roy.

...For the State.

It is submitted by the learned Advocate for the petitioner that an order was passed on 23rd September 2020 by a Co-ordinate Bench in the instant application directing the State to produce the Central Forensic Science Laboratory Report in connection with the Md. Bazar Police Station Case No. 02 of 2020. It is further submitted that no report has been submitted and the report, which sought to be relied upon by the prosecution, cannot be termed as the report submitted by the Central Forensic Science Laboratory. It is also submitted that the witness appearing in serial no. 6 in the charge-sheet is not competent to prove whether the seized article is contraband or psychotropic substance and, therefore, there is no use of keeping the petitioner in custody any longer.

Learned Advocate for the State opposes the prayer for bail. He relies upon a report dated 10th February 2020 submitted by the Ministry of Environment, Forest and Climate Change, Botanical Survey of India, Government of India, certifying the plant, the sample whereof was forwarded to them by the Investigating Agency, to be *Cannabis Sativa L*,

commonly known as Ganja plant and since the commercial quantity has been recovered, the petitioner should not be enlarged on bail. It is further submitted that since the identification of the plant is a moot question, the same can only be certified by a Botanist, who is also a Scientist appointed under the Narcotic Drugs and Psychotropic Substances Act, 1985.

After considering the submissions advanced by the respective Counsels and on perusal of the materials available on record it is no doubt true that the plant, which was seized from the possession of the petitioner, was not sent to the Central Forensic Science Laboratory, as the genesis of such plant is required to be identified and, therefore, the Botanist and the Scientist registered under the Narcotic Drugs and Psychotropic Substances Act, 1985 appears to be the competent authority.

Since the recovery has been made from the petitioner of a commercial quantity of contraband, we do not find that the petitioner has been able to make out a case for taking exception under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Accordingly, the application for bail being CRM 7027 of 2020 is **rejected**.

However, hearing of the case be expidited.

(Subhasis Dasgupta, J.)

(Harish Tandon, J.)