

Serial no.8.
September 29, 2020.
SG

CRM 7261 of 2020

In Re. An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gangarampur Police Station Case No.239 of 2019 dated 01.07.2019 under Sections 411/414 of the Indian Penal Code read with Sections 21(c)/22(c)/23(c)/28/29 of NDPS Act.

In the matter of: Milan Roy

...petitioner.

Mr Sayan De

... for the petitioner.

Mr Anowar Hossain
Ms Ratna Ghosh

... for the State.

The petitioner undertakes to affirm and stamp the petition as per the Rules within 48 hours of resumption of normal functioning of the court. The petition is taken up through video conference on the basis of such undertaking.

The petitioner claims that subsequent to the rejection of his prayer for bail in May, 2020, the petitioner has been forwarded the papers under Section 207 of the Code and the petitioner discovered from such papers that the seizure of the commercial quantity of contraband was alleged to have been made from a house in Sahapara which is alleged to be the petitioner's residence.

The petitioner claims that there was no attempt to comply with the requirement of any independent witness or magisterial presence. The records reveal that since the raid was conducted at night, no independent witness or any magistrate was available.

It is elementary that if the law requires a certain thing to be done in a specified manner, such act has to be done in the manner specified or not at all. On the basis of the material now available, there does not appear to be any need to continue the petitioner's detention. The petitioner will, however, attend every date fixed for trial and any unexplained absence will entitle the trial court to cancel the bail without reference to this court.

Though the State says that the petitioner has other cases pending against him, it does not appear that there is any conviction of the petitioner in connection with any case yet.

The petitioner is directed to be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of like amount, one of whom must be local, to the satisfaction of the appropriate court in Dakshin Dinajpur. The petitioner will attend every date fixed for trial and any unexplained absence will entitle the trial court to cancel the bail without reference to this court.

CRM 7261 of 2020 is disposed of.

(Sanjib Banerjee, J.)

(Aniruddha Roy, J.)

