

20.11.2020

Ct. No. 16
Item No.01
S/L
akd & ab

CRM 8745 of 2020
N. Kannan
Vs.
The State (Union Territory of
Andaman and Nicobar Islands)
With
CRM 7991 of 2020
Amit Kumar Roy
Vs.
State of West Bengal
With
CRM 8740 of 2020
Sushen Das
Vs.
State of West Bengal
With
CRM 8742 of 2020
M. Mohan
Vs.
Union Territory of Andaman
and Nicobar Islands.
With
CRM 8269 of 2020
Amit Kumar Roy
Vs.
The State (Union Territory of
Andaman and Nicobar Islands)
(Via Video Conference)

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure in connection with C.C.S.Police Station Case No. 79 of 2020 dated 16.03.2020 under Sections 22(c) read with Section 29 of the N.D.P.S. Act.

and

Mr. Deep C. Kabir,
Mr. Ajith Prasad.

..... for the petitioners.

Mr. Krishna Rao.

... for the State.

These five matters arise out of same transaction. As far as CRM 7991 of 2020 is concerned, the same is defective and, as such, not pressed. The same petitioner has a second petition which is taken up for consideration along with the cases of the three other petitioners.

The petitioners say that the prosecution case as evident from the charge-sheet is that a fisherman in Car Nicobar discovered two packets of methamphetamine which had washed

ashore and, since such as fisherman did not know what the contents were, he carried the same to an acquaintance by the name of Selvam, who in turn carried the packets to Amit Kumar Roy. Amit Kumar Roy apparently sent the two packets to a police constable in Port Blair by the name of Sushen Das. Sushen Das in his turn consulted M. Mohan and the latter called on N. Kannan. Sushen Das and M. Mohan are with the police and Kannan is with the fire brigade. These three were apprehended while travelling together in a vehicle and the two packets were recovered from the boot of the Zen Estilo.

The petitioners submit that the further case of the prosecution is that the three police personnel claimed that they did not know what the packets contained and were in the process of ascertaining the same. Sushen is supposed to have alleged that he received the packets from Amit. Search was conducted at Amit's sister's residence in Port Blair, the residence of another relative and Amit's residence in Car Nicobar and several other persons were questioned and the three police personnel and Amit have been in custody from about March, 2020. The charge-sheet has been submitted and in view of the pandemic, the petitioners say that the trial may not take off immediately. The petitioners claim that they were victims of circumstances and it is not as if they attempted to deal in any narcotic substance.

As far as Amit is concerned, it is submitted that no contraband was recovered from his possession and the only basis for the police pursuing Amit is the alleged statement of Sushen or the other police officials. The petitioners say that Amit has no previous track record of being involved in drugs and, since Sushen's alleged statement cannot be the only basis to proceed against Amit, he is entitled to bail.

As far as the three police officials are concerned, it is submitted that they were merely travelling in a car and the packets were in the trunk. The petitioners say that it is not as if the police personnel were found handing over the packets to some dealer or trying to sell the same.

In view of the fact that commercial quantity of contraband is alleged to have been recovered from the joint possession of Sushen, Mohan and Kannan, the statutory bar under Section 37 of the Act of 1985 prohibits such persons to be enlarged on bail. In case of Amit, there was no recovery from his possession; and yet, prima facie, there appears to be a ring of truth about the prosecution case. There was a Filipino vessel which had strayed into Indian waters a few weeks back and upon such vessel being chased by the Coast Guard or the Navy, the vessel dumped its cargo in the open sea. It has been widely reported that packets of drugs have been washed ashore, particularly in the Car Nicobar area. It is possible that Amit had thought of making some quick money by peddling the material. However, nothing has been found from Amit's possession and the only material that the Administration can show against Amit is the uncorroborated statement of a person who was arrested with contraband in his possession.

Amit is entitled to obtain bail, but he will be confined to Port Blair till the completion of trial. In case of any grave exigency, Amit may seek permission from the trial court to travel to Car Nicobar. It will be open to the investigating agency to allow Amit to travel beyond Port Blair under supervision. However, Amit will not leave the Andaman & Nicobar Islands to travel anywhere else till the trial is completed.

The prayer made by the three other petitioners is declined.

CRM 7991 of 2020 is dismissed as infructuous. CRM 8745 of 2020, CRM 8740 of 2020, CRM 8742 of 2020 and CRM 8269 of 2020 are disposed of.

(Sanjib Banerjee, J.)

(Hiranmay Bhattacharyya, J)

