

18/11/2020
Item No.1 SL
AB/SDE

Through Video Conference

CRM 9060 of 2020

In Re : An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliyaganj P.S.Case No.292 of 2015 dated 19.9.2015 under Sections 27/27(b) of the Drugs & Cosmetics Act read with Section 21 of the NDPS Act

**Md. Muslim @ Moslem Ali @ Md. Muslain @ Maslam Ali
Vs
The State of West Bengal**

Mr. Pronojit Roy ...for the Petitioner.

Mr. Saibal Bapuli, APP
Mr. Aniket Mitra ...for the State.

The petitioner undertakes to affirm and stamp the petition/application 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 undertaking.

Learned Counsel for the petitioner is present. He has made certain submissions pointing out that a co-accused has been released on bail by the trial court way back in 2018. It appears that the case was initially started under the Drugs and Cosmetics Act. However, the final report has been formulated for an offence punishable under the NDPS Act. The trial court has passed an order on 15.10.2020 noticing that the contraband is of commercial quantity and charge sheet has already been submitted.

Learned Counsel appearing on behalf of the prosecution submits that this case would fall within the provisions of Section 37 of the NDPS Act since the seized contraband is of commercial quantity. He points out, in answer to our query, that the analysis report is already available and is part of the case record. If that be so, we do not see as to how the trial of the case by the court below should further drag on particularly when one of the co-accused persons is continued to be kept under detention pending trial, essentially on the strength of Section 37 of the NDPS Act. Liberty issues will have to be nicely balanced and expeditious qualitative and quantitative disposal of such litigations have to be ensured.

While we do not find any reason to interfere with the order of the trial court issued on 15.10.2020 and take a different view at this end and grant bail, we direct the trial court to expedite the trial of this case to the extent possible, for which the prosecution will take effective steps. If there is undue delay, it will be open to the petitioner before us to apply afresh for grant of bail before the trial court and such application will be considered de hors anything stated by us in this order. However, we take note of the submission of the petitioner that the seizure list does not disclose any connection between the petitioner and the seized articles.

Subject to the aforesaid and without prejudice to the petitioner's right to take recourse in terms of this order, this application for bail stands dismissed.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)