

13.01.2021

Item No.3

Ct.No.28

dc.

Allowed

C.R.M. 20 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In the matter of : Abinash Barman @ Abhilash Barman
... Petitioner.

Mr. Sayan De ... For the Petitioner.

Mr. Pradipta Kumar Ganguly ... For the State.

The present application under Section 439 of the code of Criminal Procedure has been preferred by the petitioner in connection with Special (NDPS) Case No. 08/19 arising out of Tapan P.S. Case No. 05 of 2019 dated 06.01.2019 under Sections 21(C)/22(C)/23(C)/27a of the NDPS Act read with Sections 14A(b)/14(c) of the Foreigners Act.

The learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in the criminal proceedings and his name has transpired on the basis of Section 161 statement of a co-accused. Anticipatory bail has already been granted to co-accused persons, who are similarly situated with the petitioner. In such circumstances, further detention of the petitioner, who is already in custody for more than 102 days, is not necessary.

The learned advocate appearing for the State opposes the petitioner's prayer and submits that there are incriminating materials on record against the petitioner.

Heard the learned advocates and considered the materials in the case diary.

It appears that the petitioners' name has transpired from Section 161 statement of a co-accused, which is inadmissible in evidence and as such, the rigours of NDPS Act shall not apply towards grant of bail.

It also appears that co-accused persons similarly situated with the petitioner have already been granted anticipatory bail. In such circumstances, we are of the opinion that further detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act, Dakshin Dinajpur at Balurghat and on further condition that the petitioner shall be present twice in a month before the trial court.

The application for bail being CRM 20 of 2021 is, accordingly, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)