

(Via Video Conference)

4 & 5 09.04.2021

DD/Aloke

CRM 135 of 2021

In the matter of: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.01.2021 in connection with Katwa P.S. Case No. 598 of 2017 dated 28.12.2017 under Sections 20(b)(ii)(c)/25 of the NDPS Act.

And

In re : Sanjit Sharma & Anr. ...Petitioners

WITH

CRM 133 of 2021

In the matter of: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.01.2021 in connection with Katwa P.S. Case No. 570 of 2017 dated 10.12.2017 under Section 20(b)(ii)(c) of the NDPS Act.

And

In re : Sanjit Sharma & Anr. ...Petitioners

Mr. Rajdeep Majumder, adv.

Mr. Mayakh Mukherjee, adv.

Mr. Abhishek Banerjee, adv.

Mr. Soumen Ghosh, adv.

.... for the petitioners

Mr. Ranabir Roy Choudhury, adv.

Mr. Mainak Gupta, adv.

... ...For the State in CRM 135 of 2021

Mr. Sanjoy Bardhan, adv.

Ms. Manisha Sharma, adv.

... ...For the State in CRM 133 of 2021

These are applications for bail under Section 439 Cr.P.C. The applicants are Sanjit Sharma and Pratap Sarkar.

Since learned advocates appearing in both the matters pointed out that the facts and grounds are similar and learned prosecutors appearing in the cases also have taken that stand, we propose to dispose of these two bail applications through a common order.

The sum and substance of the contentions of the petitioners is that they have been falsely implicated on the basis of certain disclosures made by a person in custody under Section 164

Cr.P.C. and that the artificiality embedded in the modality adopted by the investigating officer will show that the two cases against the petitioners are cooked up and are ridden with inherent infirmities of such nature which would show that they are not liable to be prosecuted. It is also pointed out that both the persons (petitioners) are in custody for more than 3½ years or nearly 4 years.

We have perused the statement recorded under Section 164 Cr.P.C. (translated version) of Kadar Sk whose disclosure is treated as vital at this stage by the prosecution. We have also gone through the material facts and factors disclosed and recorded through the proceedings as well as the earlier order by which a coordinate Bench had rejected the prayer for bail on 17.08.2020 wherein it was clearly noted that the quantity of 'ganja' recovered was more than 22 kg. and, hence, commercial quantity and, therefore, falling within the restrictive covenant contained in Section 37 of the NDPS Act. While learned counsel for the petitioners argued that there is nothing to show that there was recovery from the person of the petitioners, we are clearly of the view that in such activities of quantitative dealings with objectionable substances the jurisprudential look cannot be on the basis of recoveries which are to be definitely from the physical body or wearing apparels or personal belongings of any particular person when the qualitative link running through the entirety of the transactions as between the persons are matters which have to be left to be adjudicated.

On the whole, we are not impressed to grant bail to the petitioners at this stage.

In the result, we dismiss these applications, however, requesting the trial court to expedite the trial of both the cases and conclude it by ensuring attendance of witnesses and their examinations and taking a final decision in both the criminal cases within an outer limit of six months from the date of receipt of a copy of this order.

CRM 135 of 2021 and CRM 133 of 2021 are, accordingly, disposed of.

[Thottathil B. Radhakrishnan, C.J]

[Arijit Banerjee, J.]