

15.03.2021

Item No.16

Ct.No.28

dc.

Rejected

C.R.M. 753 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 : **Sk. Nasim alias Pappu & Anr.**

... Petitioners.

Mr. Jyoti Prakash Chatterjee

... For the Petitioners.

Mr. Sanjoy Bardhan,
Ms. Manisha Sharma

... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with NDPS Case No. 32 of 2020 arising out of Serampore P.S. Case No. 173 of 2020 dated 23.06.2020 under Sections 21(c) of the Narcotic Drugs and Psychotropic Substances Act.

The learned advocate appearing for the petitioners prays for bail on the ground of parity stating that one Md. Jalil @ Jang, who is similarly situated with the petitioners, was enlarged on bail by an order dated 1st December, 2020 in CRM 8037 of 2020. He further argues that the provisions of Section 52A of N.D.P.S. Act, 1985 were not complied with. Upon completion of investigation, charge-sheet has also been filed and as such, further detention of the petitioners, who

are in custody for about 260 days, is not warranted in the facts and circumstances of the case.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioners' prayer and draws our attention to the seizure list and states that contraband substance, above commercial quantity, was recovered from the joint possession of the petitioners. He further denies that the provisions of Section 52A of N.D.P.S. Act were not complied with. He further submits that the petitioners are having criminal antecedents.

We have perused the materials in the case diary including the seizure list. The argument as advanced that the provisions of Section 52A of the N.D.P.S. Act had not been complied with, is not acceptable to us. In view thereof and as contraband substance, above commercial quantity, was recovered from the joint possession of the petitioners, we are of the opinion that the provision of Section 37 of the N.D.P.S. Act is attracted and as such, the petitioners' prayer for bail is **rejected** at this stage.

The application for bail, being CRM 753 of 2021, is, thus, dismissed.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)