

23.03.2021.
Item No.54
(Rejected)

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C.R.M. 811 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.01.2021 in connection with N-76 of 2020 and NCB Crime No. 09/NCB/KOL/2020 under Section 9A against the accused and punishable under Sections 25A/29 of the Narcotic Drugs and Psychotropic Substances Act;

And

In the matter of : **Basheer Ahamed S.M.S., Sickander
Batcha S.M.**

... petitioner.

Mr. Navanil De.

...For the petitioner.

Mr. Y. J. Dastoor, Ld. ASG,

Mr. Phiroze Edulji,

Mr. Somnath Adhikari.

...For the Union of India.

The Advocate-on-Record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

This is an application for bail in connection with N-76 of 2020 and NCB Crime No. 09/NCB/KOL/2020 under Section 9A against the accused and punishable under Sections 25A/29 of the Narcotic Drugs and Psychotropic Substances Act at the behest of the petitioner.

The learned Advocate for the petitioner is very much vocal in his submission that the petitioner has been implicated in connection with the instant case despite having no recovery of contraband from him and solely on the basis of the investigation and the statements made by the witness linking with the earlier transactions pertaining to the export of the exercise equipment to the Republic of Australia.

The substance, which was recovered being hide inside the declared goods, was found to be pseudoephedrine, which

is a controlled substance and the authorities did not find any explanation at the time of seizure.

While tracing the source thereof, it transpires in the investigation that the same modalities were adopted earlier when the exercise equipment was exported to the same consignee but by another consignor. The statement of the shop owner, who sold that exercise equipment, identifies the petitioner to have purchased the same though he came along with some other persons who, in fact, were standing outside the shop room because of the paucity of space.

The investigating authorities found the modus operandi of exporting the controlled substance without any declaration having made either in the consignment note or the waybill nor disclosed to the carrier, who pleaded ignorance of such fact.

There appears to have been a link sought to be established to curb the menace of the illegal export of the contraband or the controlled substance, which has an impact of tarnishing the republic of the country, which has gained after the herculious exercise.

Since there has been a reasonable nexus of the link, which is yet to be unearth, we do not feel that it is a fit case where the petitioner should be released on bail despite the fact that the restrictions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act does not apply.

Accordingly, the application for bail being CRM 811 of 2021 is **rejected**.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)