

10.08.2021
Item no.10.
Court No.32.
AB
(Rejected)

(Via Video Conference)

CRM No. 1105 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 27.01.2021 in connection with Duttapukur Police Station Case No.614 of 2020 Dated 23.8.2020 under Sections 21 (c) /29 of the NDPS Act

And

**In the matter of : Lal Mahammad Dhukre @ Lal
Mahammad Dukre @ Laltu**

.....Petitioner.

Mr. Ayan Basu,
Mr. Sumit Routh for the Petitioner.

Mr. Saryati Dutta for the State.

It is not in dispute that commercial quantity of contraband substance was recovered from the joint possession of the petitioner and two other co-accused persons.

It is pointed out by learned Advocate for the petitioner that the date of seizure of the contraband in the seizure list is the same as the date of receipt of the sample by the laboratory for chemical examination, which is improbable. Learned Counsel submits that it is not possible that the sample of the contraband was received by the Forensic Laboratory on the same date, when the seizure was effected around 9.30 p.m.

It is stated that the petitioner is in custody for 322 days and charge sheet has been submitted.

The State refers to the case diary including the seizure list and statement of witnesses recorded under Section 161 of the Code.

We have considered the material on record. It is true that the dates in the seizure list as well as in the chemical report showing receipt of the sample of contraband article are 23.8.2020. This might be a possible clerical mistake on the part of the Investigating Agency. Such point may be urged by the petitioner during trial.

As contraband substance above commercial quantity was recovered from the joint possession of the petitioner and two other co-accused persons, we are inclined to hold that in view of the statutory restriction in Section 37 of the NDPS Act, the prayer for bail of the petitioner cannot be acceded to.

The prayer for bail is, accordingly, rejected.

However, keeping in mind the protracted period of detention suffered by the petitioner, we request the learned Trial Court to conclude the trial as expeditiously as the business of the Court may permit without granting any unnecessary adjournment to either of the parties.

C.R.M. No.1105 of 2021 is dismissed, accordingly.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)