

24.06.2021
Item no.10
Court No.28
AB

(Bail Rejected)

(Via Video Conference)

CRM 1571 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 05.02.2021 in connection with Special Case No. N-192 of 2020 arising out of NCB Crime No. 18/NCB/KOL/2020 under Sections 8(c)/22(c)/23 of the NDPS Act

and

In the matter of : Mukhtar Sk. @ Mukhter Sk.

.....Petitioner

Mr. Sekhar Kr. Basu, Sr. Advocate,
Mr. Soubhik Mitter, Advocate,
Ms. Rajnandini Das, Advocate,
Ms. Arushi Rathore, Advocatefor the Petitioner.

Mr. Y. J. Dastoor, Ld. ASG,
Mr. Phiroze Edulji, Advocate,
Ms. Amrita Pandey, Advocatefor the UOI.

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.

The petitioner has filed the instant application for bail in connection with Special Case No.N-192 of 2020 arising out of NCB Crime No.18/NCB/KOL/2020 under Sections 8(c)/22(c)/23 of the NDPS Act.

The learned advocate for the petitioner emphasizes on the lapses of the prosecuting agency in establishing and/or creating a nexus with the petitioner. At the outset, it is

submitted that the petitioner has been arrested on the statement of the co-accused though no contraband was recovered from his exclusive possession. According to him, he being the brother of Md. Jamshed, who in fact booked the consignment, has been unnecessarily implicated in the instant case and, therefore, the petitioner should be enlarged on bail. A plea of non-compliance of Section 52A of the NDPS Act has also been taken.

On the other hand, the learned advocate appearing for the Union of India submits that the petitioner is an active member of an international racket dealing with the drugs and the other narcotics and on a specific information, the consignment was intercepted at the warehouse of the logistic agent i.e. DHL India Private Limited. It was noticed that the description for the export of the goods was shown differently than what actually transpired at the time of search. The contraband was found in the box where the description was shown as a lehenga and saree, which raises a very strong suspicion that the person, who booked the consignment, was quite conscious and aware of the consignment being the contraband.

We have given our anxious consideration to the aforesaid facts and we find from the documents produced by the Union of India that the compliance under Section 52A of the NDPS Act has been made and the contraband was sent after sampling to the FSL and the analysis report has been received showing the sample to be alprazolam.

Furthermore, the petitioner's complicity to the alleged offence cannot be ruled out at this stage in view of the prima facie findings recorded by the Investigating Officer while submitting the charge sheet. It is a matter of trial whether

the petitioner has any link or nexus with the aforesaid international drug racket and, therefore, we do not find that the petitioner is entitled to bail at this stage.

Accordingly, the prayer for bail is rejected.

The application being CRM 1571 of 2021 is, accordingly, dismissed.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)