

13.04.2021
Item No.139
Ct.No.28
Subha
Allowed

C.R.M. 1642 of 2021
(Via Video Conference)

In Re: An application for bail under Section 439 Cr.P.C in connection with Special Case No. 24 of 2019 arising out of Kaliachak P. S. Case No. 704 of 2019 dated 31-10-2019 under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act.

In the matter of : **Amirul SK @ Ramjan Sk** ... Petitioner.

Mr. Milon Mukherjee, Sr. Advocate
Mr. Sandip Chakraborty
Mr, Kaustav Das

... For the Petitioner.

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

... For the State.

The present application under Section 439 of the code of Criminal Procedure has been preferred by the petitioner in connection with Special Case No. 24 of 2019 arising out of Kaliachak P. S. Case No. 704 of 2019 dated 31-

10-2019 under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Mukherjee, learned senior advocate appearing on behalf of the petitioner submits that the present application for bail is being renewed and earlier the detailed facts of the case could not be placed before a Co-ordinate Bench.

Learned senior advocate appearing for the petitioner draws the attention of this court to the seizure list from where he emphasizes that the seizure was effected from the kitchen room of the property in question.

Learned senior advocate appearing for the petitioner additionally submits that the signatories which consists of the police personnel and one lady who happens to be the wife of another accused, namely Saniul Sk. The present petitioner happens to be one Amirul Sk., brother of one Saniul Sk.

It has been submitted that the present petitioner has been allegedly stated to be the joint owner of the property and as such, he has been falsely implicated in the instant case.

Mr. Ghosh, learned advocate appearing on behalf of the State opposes the prayer for bail of the present petitioner and submits that 255gm of brown sugar was recovered and as such the provisions of Section 37 of the N.D.P.S Act are attracted.

We have perused the case diary and we find that in the charge-sheet only two civilians have been made witnesses and rest of the witnesses are police personnel. The two civilians are the mother and wife of the accused persons namely, Saniul Sk. and Amirul Sk @ Ranjan Sk, present petitioner.

Having regard to the manner in which the foundation of facts have been created in the instant case for only implicating the male members of the family and making the womenfolk witnesses to the case do not appear to this court as a sound foundation as the allegation relate to manufacturing of brown sugar. The brown sugar was not handed over from the personal possession of the present accused and if the investigating agency intended, which was their option, to implicate whole of the family as the seizure was effected from the kitchen. As there are no overwhelming materials directly pointing to recovery from the present petitioner, we do not think that further detention of the present petitioner is warranted as he has been able to overcome the rigors of Section 37 of the N.D.P.S Act. Further, it has been brought to our notice that the petitioner has surrendered on 1st November, 2019 and as such, prayer for bail of the present petitioner is allowed.

Accordingly, the present petitioner namely, **Amirul Sk @ Ramjan Sk** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only) with two

sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge under N.D.P.S Act, 3rd Court, Malda and subject to condition that the said petitioner shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

If the petitioner is released on bail, the petitioner shall meet with the Officer-in-charge, Kaliachak Police Station once a week until further orders and shall attend the court on each and every date so specified by the special court.

In case the petitioner fails to appear before the learned special court without any reasonable cause, the learned court will be at liberty to cancel his bail in accordance with law without any further reference to this Court.

It has been submitted on behalf of the State that the other accused person is absconding, the learned special court would be at liberty to exhaust the process of law, split the trial and proceed with the trial of the present petitioner who is available in the case.

The petitioner shall deposit his passport, if any, with the Officer-in-charge, Kaliachak Police Station and if the same is not available, he shall file an affidavit with the officer-in-Charge of the concerned Police Station prior to his release.

With the aforesaid observations, the application for bail being CRM 1642 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)