

15. 12.08.2021
Ct.32
Tanmoy
Dismissed

C.R.M. 1728 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **10/02/2021** in connection with **N 177/20** arising out of **Nazat Police Station Case No. 157/20** dated **06/09/2020** under Section **21(C)** of the N.D.P.S. Act, 1985.

And

In the matter of: - **Mushiar Rahaman Molla @ Mashier Rahaman @ Mosiar Molla**

....petitioner.

Mr. Angshuman Chakraborty

...for the petitioner.

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Majhi

...for the State.

The allegations against the petitioner are under the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner is in custody for 350 days. Charge-sheet has been submitted. The petitioner submits that he was in custody in connection with two other cases when the alleged recovery was made from a bush, which was not in control or domain of the petitioner.

Learned Counsel for the State produces the Case Diary and refers to the statements of various witnesses. He submits that narcotic substance above commercial quantity was, in fact, recovered from the possession of the petitioner.

We have considered the material in the Case Diary. It appears that commercial quantity of narcotic substance was allegedly recovered from a bush in an open area pursuant to

statements made by the petitioner who was in custody in connection with other cases.

Therefore, *prima facie*, the petitioner cannot shrug off his liability with regard to the alleged offence of dealing with narcotic substance above commercial quantity.

Considering the extent of involvement of the petitioner in the alleged crime and in view of the statutory restriction in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, we are not inclined to allow the petitioner's prayer for bail at this stage.

Accordingly, the application for bail being C.R.M. 1728 of 2021 is **dismissed**.

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

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)