

22.04.2021
Item No.138
Court No.28
Avijit Mitra

C.R.M.1803 of 2021
(Through video conference)

In Re : An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Lalgola Police Station Case no.576 of 2018 dated 31.08.2018 under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act;
And

In Re : **Md. Umar Ali @ Umar Ali**

..... petitioner

Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Ali Ahsan Alamgir

..... for the petitioner

Mr. Sanjoy Bardhan,
Ms. Manisha Sharma

..... for the State

Mr. Ganguly, learned senior advocate appearing for the petitioner disputes the factum of the case as narrated by the prosecution and submits that the ordersheets in connection with CR Case No.141 of 2018 would rebut the prosecution case about the presence of the present petitioner at the time of seizure. Learned senior advocate further contends that in view of the complaint under Sections 60A/46 of the Code of Criminal Procedure filed by the wife of the present petitioner, the prosecution case as narrated in the complaint or the chargesheet is untenable in the eye of law. As a result he submits that provisions of Section 37 of the N.D.P.S. Act are not attracted and the petitioner is entitled to be released on bail.

Mr. Bardhan, learned advocate appearing for the State opposes the prayer for bail and draws the attention of this Court to the seizure list which reflects that allegedly there were seizure of codeine mixture of commercial quantity from the joint possession of the present petitioner and others.

Having regard to the same *prima facie* we are of the view that Section 37 of the N.D.P.S. Act is attracted. As such, the prayer for bail of the petitioner is rejected.

However, having regard to the fact that the issue raised by the petitioner is required to be brought in evidence before the learned Trial Court in course of trial. In order to rebut not only Section 37 of the N.D.P.S. Act but also Section 54 of the N.D.P.S. Act, we grant liberty to the petitioner to agitate the same at the appropriate stage of the proceedings as we have been informed that the charge has already been framed. The learned Trial Court is directed to fix block dates within a specified period of time so that the trial of the case can be taken to its logical conclusion

The application for bail being CRM 1803 of 2021 is dismissed.

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

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)