

12.07.2021

Court No.28
Item No.7

Ab

CRM 1896 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 15.02.2021 in connection with Baishnabnagar Police Station Case No. 964 of 2016 dated 21.12.2016 under Section 15(C) of the Narcotic Drugs and Psychotropic Substances Act;

And

In the matter of : **Jafiruddin Sekh**

...Petitioner

Mr. Sandipan Ganguly,
Mr. Amarendra Chakraborty,
Ms. Souma Subhra Ray.

...For the Petitioner

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Majhi.

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Baishnabnagar Police Station Case No. 964 of 2016 under Section 15(C) of the Narcotic Drugs and Psychotropic Substances Act.

Learned Advocate for the petitioner submits that the petitioner has been falsely implicated in this case without any actual recovery of contraband. It is further submitted that since the petitioner is looking after the vehicle registered in the name of his wife, his involvement in the alleged offence has been suspected and his name was placed in the charge-sheet. It is also submitted that the wife of the petitioner has already been granted anticipatory bail.

Learned Advocate for the State raises objection against the prayer for bail submitting that the petitioner was a long absconder and 340 kilograms of poppy husk were recovered

from a four wheeler belonging to the wife of the petitioner. The complicity of the petitioner, thus, according to the State, cannot be ruled out.

Having considered the submission of both sides it appears that the petitioner was neither a consignor, nor a registered owner of the vehicle wherefrom the contraband was recovered. It is also an admitted position that the wife of the petitioner has already been granted anticipatory bail. Moreso no contraband has been recovered from exclusive possession of petitioner.

For the reasons as aforesaid, we find sufficient reasons to take exception to the rigor contained in Section 37 of the Narcotic Drugs and Psychotropic Substances Act.

Upon consideration of the materials placed in the case diary together with the period of detention already undergone by the petitioner, we are of the view that further detention of the petitioner is not necessary.

The prayer for bail of the petitioner is considered and allowed.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Special Judge under NDPS Act, 4th Court, Malda, subject to the condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass

necessary order in accordance with law without any further reference to this Court.

The application for bail, being CRM 1896 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Subhasis Dasgupta,J.)