

23.07.2021

Sl. No.19

Court No.28

BM

CRM 2046 of 2021

(Via Video Conference)

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Kaliachak Police Station Case No.422 of 2020 dated 03.06.2020 under Sections 21(c)/29 of the NDPS Act, 1985.

And

In the matter of : Debasish Mandal

... Petitioner

Mr. Anirban Mitra

Mr. Amit Halder

Mr. Saberi Saha

... for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

... for the State

This is the second round of litigation after the prayer for bail was rejected lastly on 1st December, 2020 in connection with CRM 9193 of 2020.

Learned advocate for the petitioner submits that the petitioner has been languishing in custody for nearly about 406 days and after the submission of the charge sheet, further detention of the petitioner is not necessary. It is further submitted that no contraband has been recovered from the exclusive possession of the petitioner, and on such score reliance has been placed on an unreported decision of Allahabad High Court at Lucknow Bench vide Bail No. 10503 of 2018, wherein for want of recovery of the contraband exclusively from the possession of the petitioner, the accused was granted bail.

According to the learned advocate for the petitioner, the petitioner is a Driver by profession and he had no knowledge about the contraband being carried in his vehicle.

Learned advocate for the State raises objection against the prayer for bail submitting that commercial quantity of contraband has been recovered from the joint possession of the petitioner and another accused person, while the petitioner was driving a commercial vehicle. It is further submitted that release of the accused person on bail at this stage would result in abscondence and the trial will be seriously prejudiced.

Learned advocate for the State sought to make a distinction with regard to decision referred by the learned advocate for the petitioner submitting that the decision, as referred above, would not be applicable in the given facts and circumstances of the case, because in the referred case accused was granted bail for want of recovery of contraband, who was arrested on the basis of co-accused statement, which is inadmissible at the moment.

Having considered the submission of both sides and bearing in mind the recovery of contraband, above the commercial quantity, from the joint possession of the petitioner with another accused, we are not inclined to grant bail ignoring the express bar contained in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The prayer for bail is refused.

Since, the accused is in custody for more than 400 days, we take notice of the anguish expressed by the learned advocate for the petitioner and request the learned trial court to take all such

incidental steps adhering to the mandate available under Section 309 of the Code of Criminal Procedure so that the case maybe decided within a reasonable period of time.

CRM 2046 of 2021 stands dismissed.

(Subhasis Dasgupta, J.)

(Shivakant Prasad, J.)