

17.11.2021

CRM 2225 of 2021

court no. : 28
Item no. : PB-06
matter : 439
status : REJECTED
transcriber : nandy

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 25.02.2021 in connection with Bongaon Police Station Case No. 574 of 2017 dated 07.06.2017 under Sections 21(c)/29 of the Narcotic Drugs & Psychotropic Substances Act. (N. Case No. 166 of 2017)

and

In the matter of: **Dipak Adhikary**

.....Petitioners

Mr. Bhaskar Charkraborty, Advocate

Mr. Santanu Maji, Advocate

.....for the Petitioners

Mr. Sanjay Bardhan, Advocate

Ms. Manisha Sharma, Advocate

.....for the State

The petitioner has filed the instant application for bail in connection with Bongaon Police Station Case No. 574 of 2017 dated 07.06.2017 under Sections 21(c)/29 of the Narcotic Drugs & Psychotropic Substances Act.

Learned Advocate for the petitioner submits that at the time of raid there was no contraband recovered from the possession of the petitioner and, therefore, the rigor of Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. It is further submitted that the co-accused has been enlarged on bail and the petitioner standing on the same footing should also be extended the same benefit.

Learned Advocate for the State opposes the prayer for bail. It is submitted that on the leading statement of the petitioner, commercial quantity of contraband was recovered and the petitioner stands on different footing that of the co-accused.

After hearing the respective Counsel for the parties and upon perusal of the materials on record including the statement of the petitioner recorded under Section 161 of the Code of Criminal Procedure as well as the seizure list and the fact that commercial quantity of contraband was recovered on the leading statement of the petitioner, we feel that it attracts the rigor of section 37 of the NDPS Act and the petitioner appears to have in constructive possession of the contraband.

In view of the above, the prayer for bail is **rejected**.

The application being **CRM 2225 of 2021** is accordingly **dismissed**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)