

05.08.2021
Item no.30.
Court No.32.
AB
(Allowed)

(Via Video Conference)

CRM No. 2762 of 2021

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 16.03.2021 in connection with Baishnabnagar Police Station Case No.572 of 2019 Dated 02.11.2019 under Sections 21(c)/29 of the NDPS Act

And

In the matter of : Saniul Sk. @ Saniyul Sk. @ Tabbu

.....Petitioner.

Mr. Milan Mukherjee, Sr. Adv,
Ms. Sreyashee Biswas,
Ms. Benajir Hasnafor the Petitioner.

Mr. Swapan Banerjee,
Ms. Purnima Ghoshfor the State.

Seven persons have been accused of committing offence punishable under the provisions of the NDPS Act, 1985. Five of them have been granted bail. One is in custody. The petitioner prays for bail.

We have seen that an earlier prayer of the petitioner was rejected by an order dated 17.08.2020 passed by a Coordinate Bench of this Court.

Mr. Mukherjee, learned Senior Counsel appearing for the petitioner points out, with reference to the seizure list, that incorrect submission had been made on August 17, 2020 before

the Court on the basis whereof it was recorded that 618 grams of heroin was recovered from the custody of the petitioner. Mr. Mukherjee has shown us from the seizure list that in fact, 63 grams of heroin, which is much below the commercial quantity, was recovered from this petitioner and one Farida Bibi, who has been enlarged on bail. 618 grams of contraband was recovered from one Kawsar Ali, which is also reflected from another seizure list.

In view of the fact that five out of seven co-accused persons have been enlarged on bail and also that the contraband recovered from the possession of the petitioner is much below commercial quantity and in view of the material in the case diary, we are inclined to enlarge the petitioner on bail. We are told that charge sheet has been filed.

Since the recovery of contraband was much below commercial quantity, the restriction in Section 37 of the NDPS Act is not attracted.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Malda, and on further conditions that he shall remain within the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

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

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)