

26.07.2021

CRM 2944 of 2021

Court No. 28
Item No. 18
Nandy/poppy

(Via Video Conference)

(bail – allowed)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 22.03.2021 in connection with Special Case no. 74 of 2016 (ref:- S.I.'s S.L. no. 32/15-16 dated 12.02.2016) under Section 8(b)/18(c) of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : **Bhabesh Mandal**

.....petitioner

Mr. Anirban Deb Adhikari, Advocate

Mr. Mounick Ghosh, Advocate

.....for the petitioner

Mr. Sanjoy Bardhan, Advocate

Mr. Palash Chandra Majhi, Advocate

.....for the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection Special Case no. 74 of 2016 (ref:- S.I.'s S.L. no. 32/15-16 dated 12.02.2016) under Section 8(b)/18(c) of the Narcotic Drugs and Psychotropic Substances Act.

The petitioner is seeking release on bail as he is in custody for last 192 days after having surrendered before trial Court on 12th January 2021. It is pointed out by the learned advocate for the petitioner that as many as 13 accused persons were admitted on anticipatory bail. The allegation is that there has been cultivation of poppy plants in large tract of the lands in the plots as mentioned at page 17 and 19 of the case diary reflecting the accused persons including the petitioner's name as the owner of the plots in which the said poppy plant cultivation was going on. But, it would appear from the case diary at page 17 that plot no. 5044 stands recorded in the name of the petitioner in respect of 60 decimals of land and 92 decimals in plot no. 5045 and all the poppy plants have been

destroyed. The seizure list at page 11 shows that poppy cultivated in various other plots of lands were seized from those lands but it is not revealed from whom it was seized and there is no reflection in the case diary as to who had cultivated the poppy plants in those plots.

Learned Public Prosecutor-in-charge has repeatedly brought to our attention the contents of page 82 and 93 of the case diary. It is found from the said documents that plot nos. 5044 and 5045 are owned by more than one person. Accused Bhabesh Mandal attended before the Investigating Officer and made a plea that he cultivated *dhaniya* and wheat. There is no material on record that from the piece of land under possession of Bhabesh Mandal, the contraband article, i.e., poppy plants were seized. It is true that the petitioner was absconding for 5 years but subsequently, he surrendered on 12th January 2021.

In view of his voluntary surrender and the materials on case diary and bearing in mind the parity of the petitioner with that of the other accused persons who had been granted anticipatory bail, we do not find such extent of complicity of the petitioner where the prayer for bail should be refused.

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

Accordingly, the petitioner, **Bhabesh Mandal**, 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 the 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 an appropriate order in accordance with law without further reference to this Court.

The application for bail, being **CRM 2944 of 2021**, is thus **disposed of**.

(Bibek Chaudhuri,J.)

(Shivakant Prasad, J)