

07.07.2021.
Item No.139
(Rejected)
saswata/ab

(Via Video Conference)

C.R.M. 3283 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.04.2021 in connection with STF Police Station Case No. 26 of 2019 dated 02.08.2019 for committing offence punishable under Sections 22(c)/29 of the NDPS Act read with Section 14(b) of the Foreigners Act.

And

In the matter of : **Assabur Hossain**

... petitioner.

Mr. Sabir Ahmed
Mr. Mujibar Ali Naskar

...For the petitioner.

Mr. Madhusudan Sur
Mr. Dipankar Pramanick

...For the State.

This is an application for bail in connection with STF Police Station Case No. 26 of 2019 for committing offence punishable under Sections 22(c)/29 of the NDPS Act read with Section 14(b) of the Foreigners Act at the behest of the petitioner.

The petitioner has filed the instant application for bail on the ground of parity. It is submitted that the other co-accused who stands on the same footing had already been enlarged on bail and, therefore, the petitioner should not unnecessarily be detained in custody.

Our attention is drawn to the various orders passed by the Learned Special Judge, NDPS Court. We are amazed and surprised to go through the findings recorded therein, more particularly that once the charge-sheet has been filed and since the prayer for supplementary charge-sheet is pending for consideration, it would be construed as an exception to Section 37 of the NDPS Act.

Admittedly, a case was initiated on 2nd August, 2019. The petitioner was arrested on 7th August, 2019 and the charge-sheet was filed on 28th January, 2021. The said

charge-sheet is filed within the statutory period provided under the NDPS Act and even if the prayer for supplementary charge-sheet is made, it is a matter between the Court and the Investigating Agency. The petitioner does not stand on a better footing in this regard. Above all, there was a recovery of contraband from the possession of the petitioner, which is above commercial quantity and the prayer for bail of the petitioner was rejected by this Court on 18th January, 2021.

We, thus, do not find any changed circumstances warranting the different decision to what had already been taken by the Coordinate Bench on an earlier occasion.

The application for bail being CRM 3283 of 2021 is ***rejected.***

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)