

07.07.2021

Court No.28
Item No.145

Ab
&
saswata

CRM 3297 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 08.04.2021 in connection with Malda Police Station Case No. 359 of 2020 dated 29.06.2020 under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act read with Sections 18(b)/27 of the Drugs and Cosmetics Act (Special Case no. 51 of 2020).

And

In the matter of : **Baban Das**

...Petitioner

Ms. Busra Khatoon

...For the Petitioner

Mr. Sanjay Bardhan

Ms. Manisha Sharma

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Malda Police Station Case No. 359 of 2020 under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act read with Sections 18(b)/27 of the Drugs and Cosmetics Act.

Learned Advocate for the petitioner submits that the petitioner has been languishing in custody for about 240 days without any recovery of contraband, above the commercial quantity. Charge – sheet in this case has already been submitted relying upon the statement of the co-accused transpiring complicity against the petitioner, which, according to the petitioner, should not be relied upon in refusing the prayer for bail.

Learned Advocate for the State raises objection submitting that though there has been no recovery of alleged contraband from the exclusive possession of the petitioner, but release of the petitioner at this stage may lead to his abscondence.

Having considered the submission of both sides and bearing in mind that there is no recovery of contraband from the exclusive possession of the petitioner, and the statement of co-accused being basis of implication, which is inadmissible in evidence, we are of the view that there are sufficient grounds to take exception to the rigor contained in Section 37 of the Narcotic Drugs and Psychotropic Substances Act.

The prayer for bail of the petitioner is considered and allowed.

Accordingly, the petitioner 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 NDPS Act, 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 necessary order in accordance with law without any further reference to this Court.

The application for bail, being CRM 3297 of 2021, is thus **disposed of.**

(Harish Tandon, J)

(Subhasis Dasgupta,J.)