

23.08.2021

CRM 3301 of 2021

court no. : 28
Item no. : PB-12
matter : 439
status : REJECTED
transcriber : nandy

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 12.04.2021 in connection with Kolkata S.T.F. Police Station Case No. 28 of 2019 dated 05.08.2019 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs & Psychotropic Substances Act. (NDPS Case No. 30 of 2019)
and

In the matter of: **Zakir Hossain**

.....Petitioner

Mr. Manjit Singh, Advocate
Mr. Gaganjyot Singh, Advocate
Mr. Biswajit Mal, Advocate

.....for the Petitioner

Mr. Sudip Ghosh, Advocate
Mr. Bitosok Banerjee, Advocate
Mr. A.K. Datta, Advocate

.....for the State

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking the application is taken up for hearing.

The petitioner has filed the instant application for bail in connection with Kolkata S.T.F. Police Station Case No. 28 of 2019 dated 05.08.2019 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs & Psychotropic Substances Act.

A point has been taken by the petitioner that no contraband was recovered from his exclusive or joint possession at the time of seizure but later on, the prosecution has shown recovery of the contraband from the leading statement of the petitioner alleged to have been recorded by the Investigating Officer. It is further submitted that there is disparity in the entire investigation, as several procedure required to be followed have not been shown to be followed in this case.

The State opposes the prayer for bail and submits that on the leading statement of the petitioner, contraband above the commercial quantity was recovered and, therefore, it cannot be said that there was no recovery from the petitioner.

After hearing the respective submissions and upon perusal of the materials-on-record including the statement of the petitioner recorded by the Investigating Officer making disclosure of the contraband having kept in a rented flat and subsequent recovery therefrom, we do not think that the petitioner has been able to make out a case to take exception to Section 37 of the Narcotic Drugs & Psychotropic Substances Act.

As such, the prayer for bail is **rejected**.

The application being **CRM 3301 of 2021** is accordingly **dismissed**.

Whether the procedure required to be followed have been followed or not, is a matter of trial and if the point is taken, the Special Judge, NDPS Court, shall deal with the same. We also request the Special Judge, NDPS Court to expedite the trial.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)

