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09-06-2021
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CRM 3656 of 2021

(Via Video Conference)

In the matter of an application for bail under Section 439 of the Code of Criminal Procedure, 1973.

AND

In the matter of: Surojit Mandal ..petitioner.

Mr. S. Chowdhury ...for the petitioner.

Mr. Sanjay Bardhan

Mr. M. Sharma

Mr. N. Dhali ...for the NIA.

This application under section 439 Cr.P.C is filed challenging the order dated 26.03.2021 passed by the learned Chief Judge, City Sessions Court, Calcutta in connection with N.I.A. Case No. 1 of 2020 dated 04.03.2020 (RC-08 of 2020 of NIA of DLI) dated 04.03.2020 under sections 120B/489B/489C IPC and the charge sheet submitted under the above sections of law along with sections 16 and 18 of the UA (P) Act.

It is submitted by the learned counsel for the petitioner that charge sheet has not been submitted against the present petitioner. Accordingly, the petitioner is seeking release on bail in connection with the case under reference.

Learned counsel appearing for the National Investigating Agency (NIA) at the very outset draws out attention to the

provision of appeal against such order of rejection of bail as embodied under section 21(4) of the National Investigation Agency Act, 2008 to submit that notwithstanding the provision as embodied under section 378(3) Cr.P.C, an appeal shall lie to the High Court against an order of the Special Judge granting or refusing bail. Therefore, the bail application under section 439 Cr.P.C is misconceived and is not maintainable.

We have thoroughly considered the provision and the nature of offence. The prayer as made by the petitioner cannot be entertained upon an application under section 439 Cr.P.C. However, we make it clear that the petitioner would be at liberty to prefer an appeal under the provision aforesaid, if so advised.

The original certified copy may be returned on usual undertaking replacing a photocopy of the same.

Thus CRM 3656 stands dismissed.

(Saugata Bhattacharyya, J.)

(Shivakant Prasad, J.)