27.07.2021
Item no. 39
Court No.32.
S.De.(s)
(partly allowed)

(Via Video Conference)

CRM 3786 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 25.05.2021 in connection with Krishnaganj Police Station Case No. 156 of 2020 Dated 27.07.2020(corresponding to NDPS Case No.50 / 2020) under Section 21 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of : Abhisekh Biswas @ Avishek Biswas & Anr.

.....Petitioner.

Mr. Soubhik Mitter, Advocate,
Mr. Ronodeb Sengupta, Advocate,
.....for the Petitioners.

Mr. Arijit Gangully, Advocate,
Mr. Sanjib Kr. Dan, Advocate,
.....for the State.

It is fairly submitted by the learned advocate for the petitioners that narcotic substance above commercial quantity was recovered from the possession of the petitioner no.1. The name of the petitioner no.2 transpired from the statement of a co-accused made before a police personnel and as such he may be favoured with an order of bail.

The State opposes the prayer for bail and draws the attention of the Court to various documents in the case diary including the seizure list.

We have considered the material available in the case diary. It appears that narcotic substance above commercial quantity has been recovered from the possession of the petitioner no.1 and in view of statutory restrictions under Section 37 of the N.D.P.S. Act, prayer for bail with regard to petitioner no.1 is rejected.

As far as petitioner no.2 is concerned, no narcotic substance has been recovered and his name has transpired from the statement of a co-accused made before a police officer which is inadmissible in evidence.

We are, therefore, inclined to hold that the petitioner no.2 has been able to rebut the statutory restriction under Section 32 of the N.D.P.S. Act and as such he may be enlarged on bail.

Accordingly, we direct that the petitioner no.2 (Monoj Agarwalla @ Pappu Agarwalla @ Pappu Agarwal shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, NDPS Act, Nadia at Krishnanagar and on further conditions that he shall remain within the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further

orders. The petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, partly allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Suvra Ghosh, J.) **(Arijit Banerjee, J.)**