

24.08.2021
Item no. 35
Court No.32.
S.De.
(Allowed)

(Via Video Conference)

CRM 3843 of 2021

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure filed on 31.05.2021 in connection with Serampore Police Station Case No. 52 of 2020 dated 11.02.2020 under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : Abhijit Majumdar.

.....Petitioner.

Mr. Tapas Kr. Ghosh, Advocate,
Mr. Tanmay Choudhury, Advocate,

.....for the Petitioner.

Mr. Sanjoy Bardhan, Advocate,
Mr. Palash Chandra Majhi, Advocate,

.....for the State.

The allegation against the petitioner is under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act.

The petitioner submits that narcotic substance above commercial quantity was recovered from the house and the car of one Rahul Jaiswal. According to the complaint, the petitioner was merely present in the house at the time of such seizure. The petitioner is in custody for 559 days.

The State opposes the prayer for bail and refers to the material in the case diary. Drawing our attention to the

seizure list, the State submits that narcotic substance above commercial quantity was seized from the joint possession of the petitioner and others.

We have perused the material in the case diary. It is clear from the documents including the complaint and statements of witnesses that narcotic substance above commercial quantity was recovered from the house and garage of one Rahul Jaiswal. Though the documents prima facie suggest presence of the petitioner in the said house at the relevant time, that does not necessarily indicate that the petitioner was responsible for such act either jointly or severally.

Having considered the material in the Case Diary, we are inclined to hold that apparently no narcotic substance was recovered from the possession of the petitioner and there is prima facie, no material against him besides his presence in the house at the time of seizure. The statutory restriction in Section 37 of the N.D.P.S. Act is not attracted. In view of the protracted detention of the petitioner and also as charge sheet and supplementary charge-sheet have been submitted, his further detention is not necessary and he may be granted bail.

Accordingly, we direct that the petitioner 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 Additional Sessions Judge-

cum-Judge Special Court (under N.D.P.S. Act), Hooghly and on further conditions that he shall remain within the jurisdiction of the concerned police station and he 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, 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.)