

06.08.2021

Court No.28
Item No.25
(REJECTED)

Saswata

CRM 4021 of 2021
(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 09.06.2021 in connection with Swarupnagar Police Station Case No. 17 of 2019 dated 12.01.2019 under Section 20 (b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act;

And

In the matter of : **Sambhu Nath Gain @ Chhoto**
...Petitioner

Mr. Dipayan Kundu

...For the Petitioner

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

... 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 under Section 439 of the Code of Criminal Procedure in connection with Swarupnagar Police Station Case No. 17 of 2019 under Section 20 (b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act.

The commercial quantity of contraband (*ganja*) was recovered from the exclusive possession of the petitioner. The petitioner is in custody for a pretty long time. However, a plea has been taken that since charge sheet has already been submitted by the Investigating Officer, the Court must be alive of the fact that the delay in framing the charge offends the statutory rights of the petitioner. It is no doubt true that once the commercial quantity of contraband has been recovered from the possession of the petitioner, he is not entitled to get bail in view of the embargo created under Section 37 of the NDPS Act. But it is equally true that after the filing of charge sheet the Sessions Court should not have sat over it without

attempting to frame the charge and set the ball in motion.

We, therefore, request the learned Special Judge under NDPS Act to fix the date for framing of the charges and, thereafter, expedite the trial of the case.

The application for bail is, thus, considered and ***rejected***.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)