

05.10.2021
Item no. 22
Court No.32.
S.De.
(Allowed)

(Via Video Conference)

CRM 4445 of 2021

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.07.2021 in connection with Domjur Police Station Case No. 444 of 2020 dated 08.09.2020 under Sections 20(b)(ii)C/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : Hamid and Another.

.....Petitioners.

Mr. Soumya Basu Roy Chowdhuri, Advocate,

.....for the Petitioners.

Mr. Swapan Banerjee, Advocate,

Ms. Purnima Ghosh, Advocate,

.....for the State.

The petitioners say that they were taken into custody in connection with a theft case. While in police custody, they made statements on the basis whereof the police recovered commercial quantity of ganja from the house of a third person. They say that they have no implication in the alleged offence under the N.D.P.S. Act. They rely on an order dated September 4, 2021 passed in CRM 2392 of 2021 by this Court in support of their prayer for bail. They have been in custody for 380 days. Charge-sheet has been submitted.

We have considered the material in the case diary. The statements of the petitioners in this case are self-implicating.

They cannot be relied upon. In CRM 2391 of 2021 this Court had relied on another decision of a Division Bench of this Court rendered in CRM 7537 of 2019 holding that since the contraband was recovered from a place to which other people had access, the prayer of the petitioners for bail should be considered favourably.

In view of the facts and circumstances of the case aforestated, we are of the view that the restrictions contained in Section 37 of the N.D.P.S. Act are not attracted. The petitioners are in custody for 380 days. Charge-sheet has been submitted. Trial has not yet started and it is anybody's guess as to when the trial will conclude.

On an overall assessment of the facts and circumstances of the case, we are of the view that the petitioners' prayer for bail may be allowed.

Accordingly, we direct that the petitioners namely **Hamid** and **Rahis** shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under N.D.P.S. Act at Howrah and on further conditions that they shall remain within the jurisdiction of the concerned police station and the petitioners shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioners 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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioners fail to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioners' 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.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)