

22.09.2021

Court No.28
Item No.41
(REJECTED)

Ab

CRM 4479 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 02.07.2021 in connection with Islampur Police Station Case No. 295 of 2020 dated 22.04.2020 under Sections 20(b)(ii)(c)/23(c) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Case No. 10 of 2020);

And

In the matter of : **Alam Miah.**

...Petitioner.

Mr. Ali Ahsan Alamgir.

...For the Petitioner

**Mr. Binay Panda,
Ms. Pushpita Saha,
Mr. Subham Bhakat.**

... 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 after being arrested in connection with Islampur Police Station Case No. 295 of 2020 dated 22.04.2020 under Sections 20(b)(ii)(c)/23(c) of the Narcotic Drugs and Psychotropic Substances Act.

The petitioner is in custody since last 530 days in connection with the aforementioned case. It is submitted that the petitioner is an irregular driver of a Bolero Pickup Van and the contraband above the commercial quantity was recovered while the owner of the said vehicle was also accompanying him. It is, thus, submitted that the petitioner is innocent having no knowledge of the contraband being kept in the said vehicle and, therefore, he is entitled to be released on

bail.

The State opposes the prayer for bail. It is submitted that the contraband above the commercial quantity was recovered from the joint possession of the petitioner and the other co-accused and, therefore, the petitioner is not entitled to bail.

After hearing the respective submissions and on perusal of the materials on record, indubitably the contraband above the commercial quantity was recovered from the joint possession of the petitioner and, therefore, embargo created under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is attracted. Whether the petitioner was an irregular driver having no knowledge of contraband kept in the vehicle is the matter of trial.

In view of the embargo created under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, we do not find that it is a fit case where the petitioner should be enlarged on bail.

The application for bail being CRM 4479 of 2021 is **rejected**.

However, we are informed that despite submitting of charge-sheet, the charges have not been framed.

We, thus, request the learned Special Judge under NDPS Act to take up the matter on the next date so fixed and endeavour shall be shown to frame the charges so that the ball may roll for the trial to commence.

(Harish Tandon, J)

(Bibek Chaudhuri, J.)