

17.11.2021

Court No.28
Item No.38
(REJECTED)

Saswata

CRM 4801 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with English Bazar Police Station Case No. 1174 of 2020 dated 06.12.2020 under Section 22(C)/29 of the NDPS Act;

And

In the matter of : **Tajel Mia & Anr.**

...Petitioners

Mr. Amitabha Karmakar

Mr. Arup Kumar Bhowmick

...For the Petitioners

Mr. Sanjay Bardhan

Mr. Palash Chandra Majhi

... For the State

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 1174 of 2020 under Section 22(C)/29 of the NDPS Act.

Learned advocate for the petitioners submits that the FIR has been lodged showing recovery of 3 transparent plastic pouch allegedly containing brown sugar from 3 different persons, including the petitioner. But they have been entangled in connection with the instant case showing the total amount as recovery from them.

Learned advocate for the State opposes the prayer for bail and submits that though the contraband was recovered from the possession of 3 persons but in the same incident and therefore, the entire quantity will constitute to have been recovered from the joint possession of the accused.

There is no doubt that the moment the contraband of different weight is recovered from the persons carrying it, it constitute the joint possession of the total quantity of contraband and therefore, the rigor of Section 37 of the NDPS Act is attracted. In view of the embargo under the aforesaid provisions of the Act, we do not think that it is a fit case where the petitioner should be enlarged on bail.

The prayer for bail is, thus, ***rejected.***

Since charge sheet has been submitted, we do not find any justification in not commencing the trial. The prosecution cannot stall the carriage of the proceeding as it has ramification on denial of justice. Speedy trial is one of the right enshrined in the Constitution to every citizen of the country and it is expected from the prosecution that they would show alacrity not only at the time of investigation but also in the carriage of the proceedings.

We are amazed to find that a plea is taken that though the charge sheet has been submitted but there is no information divulged by the investigating officer that the charges have been framed. We do not find any such ground to act as a deterrent in extending the right guaranteed under the Constitution envisaged by the framers thereof.

We, therefore, direct the prosecution to take immediate steps to expedite the trial of the case and shall ensure the presence of the charge sheeted witnesses on the date so fixed without asking for any adjournments under any circumstances.

Since the right of the accused is also paramount in the conduct of trial, the prosecution shall ensure the presence of the accused on each occasion.

The Court below is requested to take efforts to bring the case to its logical end as expeditiously as possible.

The application for bail being CRM 4801 of 2021 is accordingly ***dismissed.***

(Harish Tandon, J)

(Rabindranath Samanta,J.)