

18.11.2021

Court No.28
Item No.66
(REJECTED)

Saswata

CRM 5523 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Bishnupur Police Station Case No. 94 of 2021 dated 11.02.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act;

And

In the matter of : **Selim Ansari @ Salim Ansari @ Selim
...Petitioner**

**Mr. Anand Keshari
Mr. Sekhar Mukherjee**

...For the Petitioner

**Mr. Madhusudan Sur, APP
Mr. Dipankar Paramanick**

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Bishnupur Police Station Case No. 94 of 2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

An argument is advanced by the learned advocate for the petitioner that the investigating team fails to comply with the provisions contained under Section 50 of the NDPS Act and tersely recorded that the petitioner refused to be investigated in presence of a gazetted officer.

The case of the prosecution proceeds on the recovery of contraband above commercial quantity from the joint possession of the petitioner. Obviously, the rigor of Section 37 of the NDPS Act is attracted which disentitles the petitioner to be released on bail. The plea of compliance of the provisions contained under Section 50 of the NDPS Act is essentially a question of fact and can be decided at the time of trial.

Since the embargo created under Section 37 of the NDPS Act is attracted against the petitioner, we are not inclined to grant bail to

the petitioner.

Accordingly, the prayer for bail is ***rejected.***

However, Learned Judge, Special Court under the NDPS Act is requested to expedite the trial of the case.

The application for bail being CRM 5523 of 2021 is accordingly ***dismissed.***

(Harish Tandon, J)

(Rabindranath Samanta,J.)