

21.12.2021
Court No.32
Item No. 231
Avijit Mitra

C.R.M. 5820 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Umesh Mallick

Petitioner

Mr. Mohammad Khairul

For the Petitioner

Mr. Ranobir Roy Chowdhury,
Mr. Mainak Gupta

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with North Port Police Station Case No. 82 of 2017 dated 24.10.2017 under sections 21(b) of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Khairul, learned advocate appearing for the petitioner submits that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioner and in fact, upon completion of investigation chargesheet was submitted under Section 21(b) of the N.D.P.S. Act. The petitioner had already suffered long incarceration for 4 years and there is also no possibility towards early conclusion of the trial. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition.

Mr. Roy Chowdhury, learned advocate appearing for the State opposes the petitioner's prayer and submits that the chargesheet was submitted under a wrong section inasmuch as contraband

substance above commercial quantity was recovered from the possession of the petitioner and an application for alteration of the charges has also been filed before learned Trial Court and the same is pending. He further submits that the delay towards conclusion of trial, which has occasioned, is not totally attributable to the State. However, out of seven witnesses one had already been examined.

Having heard the learned advocates appearing for the respective parties, considering the nature of accusations and the stage of the trial, we are not inclined to exercise any discretion in favour of the petitioner and as such, his prayer for bail is refused at this stage.

Since the learned advocate for the petitioner has expressed his anguish and inconvenience, as regards the delay in progress of the trial, we take notice of such issue and direct the learned Court below to expeditiously conduct the trial and, if necessary, upon resorting to the steps available under section 309 of the Code of Criminal Procedure so that logical conclusion of the case may be reached at the earliest, preferably within a period of six months from the date of communication of this order.

With the above observations and directions, the application for bail, being CRM No.5820 of 2021, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)

