

SL. 36.
September 10, 2021.
MNS/AK

CRM 5835 of 2021

(Via Video Conference)

In Re : An application for bail under section 439 of the Code of Criminal Procedure filed on August 31, 2021 in connection with Bongaon Police Station Case No. 70 of 2020 dated February 5, 2020 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

In Re : Prosenjit Mitra @ Prasenjit Mitra @ Prosinjit Mitra

... petitioner

Mr. Krishnendu Bhattacharya,
Ms. Priyanka Ganguly
..... for the petitioner.

Mr. Rana Mukherjee,
Mr. Saryati Dutta
..... for the State.

Learned counsel for the petitioner contends that the petitioner has been arrested merely on the basis of the statement of co-accused, which is not admissible in law.

Learned counsel relies on a co-ordinate Bench judgement of this Court dated July 14, 2021 rendered in CRM 10765 of 2020 which, in turn, relied on *Tofan Singh Vs. State of Tamil Nadu reported at 2020 SCC Online SC 882*, in support of such proposition.

It is further submitted that the petitioner is already in custody for about 450 days.

Learned Additional Public Prosecutor appearing for the State opposes such prayer.

However, upon hearing learned counsel for both the parties, we find that there is sufficient scope of extending the benefit of

doubt in favour of the petitioner at this stage, for the purpose of grant of bail, in view of the lack of evidentiary value of only the statement of a co-accused, in isolation.

Accordingly, CRM 5835 of 2021 is allowed, thereby granting bail to the petitioner, namely Prosenjit Mitra @ Prasenjit Mitra @ Prosinjit Mitra, upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, Sixth Court at Barasat, District- North 24 Parganas, on condition that the petitioner shall not leave the territorial jurisdiction of the Additional Sessions Judge, Sixth Court at Barasat, District- North 24 Parganas during the period of bail. However, the petitioner shall attend on each date of trial and is permitted to leave the territorial jurisdiction of the local police station, if necessary, only for the limited purpose of attending the court proceeding and returning at the earliest thereafter. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

(Sabyasachi Bhattacharyya, J.)

(Ananda Kumar Mukherjee, J.)