

CRM No.6426 of 2021

Via video conference

01.12.21

(S.R.)

Sl.16

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Nischinda** Police Station Case No.99 of 2019 dated 24/06/2019 under Sections 20(b)(ii)c of the NDPS Act;

And

In re: Abdul Ali Mollah @ Bablu

... petitioner.

Mr. Subir Banerjee

... for the petitioner.

Mr. Madhusudan Sur, APP

Mr. Dipankar Paramanick

...for the State.

The learned advocate appearing for the petitioner submits that the petitioner is a poor labourer and the sole earning member of the family. He has been falsely implicated and has already suffered incarceration for about two and half years. There is also no possibility towards conclusion of trial in the near future. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition.

Mr. Sur, learned Additional Public Prosecutor, appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary. He further submits that contraband substance above commercial quantity was recovered from the possession of the petitioner and the rigours of Section 37 of the NDPS are clearly attracted. The delay which had occasioned is also not attributable to the State more so when the functioning of Court was irregular due to the pandemic. He further submits, upon instruction, that the date for framing of charges has been fixed on 8th January, 2021.

Heard the learned advocates appearing for the respective parties and considered the materials on records. It appears that the petitioner's prayer was last rejected by a Coordinate Bench of this

Court on 4th February, 2020 in CRM No.1174 of 2020. There had been no substantial change in the circumstances thereafter. Since, contraband substance above commercial quantity was recovered from the possession of the petitioner, the rigours of Section 37 of the NDPS Act are attracted and as such, the petitioner's prayer for bail is refused.

However, the petitioner had been under long incarceration. In view thereof, we request the learned Court below to take up the question of consideration of charges on the date fixed and to commence the trial immediately thereafter. The learned Court below is further requested to conclude the trial as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

With the above observation and directions the application for bail being CRM No.6426 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.)