

09.11.2021

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rejected

C.R.M. 6856 of 2021
(via video conferencing)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Nazat Police Station Case No. 76 of 2021 dated 14.01.2021 under Section 21(C) of the NDPS Act.

And

In Re : Habibur Sekh @ Khokon Sekh @ Bachcha Khokon petitioner

Mr. Souvik Mitter

Mr. Joy Chakraborty

... for the petitioner

Mr. Prasun Kumar Dutta, learned APP

Mr. Subrato Roy

... for the State

Petitioner is in custody for over 200 days. It is submitted by the learned Counsel appearing for the petitioner that the alleged recovery was made while petitioner was in police custody in another case. He did not have control or dominion over the place of occurrence when recovery was made.

Learned Counsel appearing for the State opposes the prayer for bail and submits that the petitioner has criminal antecedent and on his leading statement recovery was made between the night of 14/15th of April, 2021 from his residence.

We have considered the materials on record. Petitioner was arrested in connection with another case on 14th April, 2021. Upon interrogation alleged recovery was made from the residence of the petitioner between the night of 14/15th April, 2021.

Under such circumstances, we are of the opinion the defence of the petitioner that he had no control or dominion over the place of occurrence does not find favour due to contemporaneity between the arrest and the recovery pursuant to his leading statement from his residence. Moreover, recovery has been witnessed by independent persons.

In view of the aforesaid facts and in the light of the statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

However, we direct the prosecution to file forensic report before the trial court at the earliest in order to expedite the prosecution.

(Aniruddha Roy, J.)

(Joymalya Bagchi, J.)

C.R.M. 192 of 2018

In Re.: An application under Section 439 of the Code of Criminal Procedure filed on 05.01.2018 in connection with Karimpur Police Station Case No. 136 of 2012 dated 03.07.2012 under Sections 420/467/468/471/120B of the Indian Penal Code.

And

In Re : Rabish Kumar Upadhyay petitioner

Mr. Asraf Ali

... for the petitioner

Mr. Debojyoti Deb

... for the State

Having considered the materials on record prima facie disclosing involvement of the petitioner in the alleged crime of misappropriation of monies of the innocent depositors and the fact that the petitioner has absconded for a protracted period of time, we are not inclined to grant bail to the petitioner at this stage.

The application for bail is, thus, rejected.

(Rajarshi Bharadwaj, J.)

(Joymalya Bagchi, J.)

