

22.11.2021

Court No.28
Item No.14
(ALLOWED)

Saswata

CRM 7358 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Raiganj Police Station Case No. 940 of 2020 dated 21.11.2020 under Sections 21(c)/29 of the NDPS Act;

And

In the matter of : **Rafique Ali @ Rafiz Ali**

...Petitioner.

Ms. Busra Khatun

...For the Petitioner

Mr. Saswata Gopal Mukherjee, LD. PP

Mr. Antarikhya Basu

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Raiganj Police Station Case No. 940 of 2020 under Sections 21(c)/29 of the NDPS Act.

Pursuant to the order dated 18th November 2021, the Investigating Officer as well as the person who is responsible to communicate with the Investigating Officer are personally present in Court today.

The Investigating Officer offered plausible explanation that after the submission of the charge sheet, he had already been transferred to another police station and therefore, was never intimated about the filing of the instant bail application before this Court. The other officer of the concerned police station, where the case has been initiated entrusted with the function of communicating such information, had virtually no explanation to offer except, that he could not communicate to the Investigating Officer. There has been an apparent lackadaisical attitude on his part in not showing any alacrity to respond to the information of the queries raised by the State lawyer. Such lethargic and dormant

attitude is one of the factors in mounting of cases in the docket of the Court as the Court adjourns the matter in absence of the case diary.

For the aforesaid misconduct, the accused who is otherwise entitled to be released on bail, has to remain in custody and his constitutional right guaranteed under Article 21 of the Constitution of India is undermined.

The Counsel for the State says that he would not repeat any such act in future. We have no other option but to accept such statement, but with the note that such recalcitrant officer must be sensitized so to diligently discharge his duties and responsibilities entrusted upon him.

Be that as it may, it is open to the higher authorities to take a call, if the occasion so arises. The Learned Public Prosecutor is requested to communicate this order to the Superintendent of Police, Uttar Dinajpur.

Reverting back to the merit of the case, it transpires from the record that the petitioner has been apprehended in connection with the instant case, solely on the basis of the statement of the co accused, which is inadmissible in evidence at this stage. There is no corroborative materials establishing some kind of a link with the commission of an offence unearthed during the investigation.

In view of the above, we do not find any justification in keeping the petitioner in custody any longer.

Accordingly, the petitioner is directed to be released on bail upon furnishing a Bond of ₹10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, to the satisfaction of Learned Judge,

Special Court under the N.D.P.S Act, Uttar Dinajpur subject to the condition that during bail he shall appear before the learned Trial Court regularly and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in accordance with law without any further reference to this Court.

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

The application for bail being CRM 7358 of 2021 is accordingly ***disposed of***.

(Harish Tandon, J)

(Rabindranath Samanta,J.)