

17.11.2021

CRM 7416 of 2021

**Court No.28
Item No.28
(ALLOWED)**

Ab

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on 10.11.2021 in connection with Balurghat Police Station Case No. 18 of 2020 dated 10.01.2020 under Sections 21(c)/22(c)/23(c)/25/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act (Special Case No. 4 of 2020);

And

In the matter of : **Abshik Lala @ Abhishek Laha.**
...Petitioner

Ms. Busra Khatoon.
...For the Petitioner

Mr. Tapandeb Nandy,
Mr. Antarikhya Basu.
... For the State

The Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Balurghat Police Station Case No. 18 of 2020 dated 10.01.2020 under Sections 21(c)/22(c)/23(c)/25/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act.

Learned Lawyer for the petitioner submits that the contraband articles as seized were not recovered from the possession of the petitioner. The petitioner is innocent and he has falsely been implicated in this case. In such conspectus, learned Lawyer submits that the petitioner may be enlarged on bail.

Learned Lawyer for the State submits that the contraband articles were seized from the possession of the petitioner. Learned

Lawyer points out that while the petitioner was chased by the Border Security Force official the petitioner left with a motorcycle and from which the contraband articles were seized. Learned Lawyer submits that it will be presumed that the contraband articles were seized from the possession of the petitioner. Under such circumstances, learned Lawyer prays for rejection of the prayer for bail.

Having heard the learned Lawyers appearing for the parties and on perusal of the materials in the case diary, we find that contraband articles were seized from a motorcycle. It does not transpire from the materials in the case diary to whom the motorcycle belongs. Therefore, suspicion crops up whether the contraband articles were seized from the possession of the petitioner. We feel that under such circumstances the rigor of Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. The charge-sheet has already been submitted.

In view of the above, we are inclined to enlarge the petitioner on bail.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000 /- (Rupees Ten Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under Narcotic Drugs and Psychotropic Substances Act, Dakshin Dinajpur, subject to the condition that the petitioner shall appear before the Trial Court on every date of hearing until further orders.

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.

The application for bail, being CRM 7416 of 2021, is thus **allowed.**

(Harish Tandon, J)

(Rabindranath Samanta, J.)