

CRM 7467 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **New Alipore** P.S. Case No. **65/2021** dated **19.02.2021** under Sections **21(b)/27A/29/30/58(2)** of the NDPS Act.

And

In the matter of: **Pamela Goswami & Anr.**

....Petitioners

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Mukesh Kumar Pandey

Mr. Karan Dudhwewala

...for the Petitioners

Mr. Saswata Gopal Mukherjee, LD. PP

Mr. Sanjay Bardhan

...for the State.

Petitioners are in custody for 292 days. Mr. Ganguly appearing for the petitioners submits although narcotic substance was recovered from the vehicle of the petitioners, investigation revealed that the same had been planted pursuant to a conspiracy hatched by one Rakesh Singh and other person. The aforesaid Rakesh Singh and other accused person were accordingly charge sheeted under Sections 21(b)/27A/29/30/58(2) of the NDPS Act and prayer for discharge was made so far as the petitioners are concerned. Trial Court refused the prayer for discharge and took cognizance of the alleged offences.

It is contended Trial Court failed to appreciate that the petitioners did not have conscious possession of the drug and illegally refused to discharge the petitioners.

Learned Public Prosecutor appears and places the case diary on record. He does not oppose the prayer for bail.

We have considered the materials on record. Narcotic substance of intermediate quantity was recovered from the vehicle, wherein, the petitioners were present. Prayer for discharge has been made on the ground that the said narcotic substance was planted in the vehicle by one Rakesh Singh and other accused persons without the knowledge of the petitioners.. Trial Court, upon considering the materials on record and

referring to statutory presumptions under Section 37 and 54 of the NDPS Act held it would be premature to discharge the accused persons. We do not show to express any opinion with regard to the correctness of the finding. However, in the aforesaid factual matrix of the case and as the issue of conscious possession of the narcotic drug does not appear to doubtful and the volume of drug recovered is of intermediate quantity, we are of the opinion that the petitioners may be enlarged on bail.

The prayer for bail is thus, allowed.

Let the petitioners be released on bail upon furnishing a Bond of Rs. 10,000/- each, with two sureties of like amount each one of whom must be local, to the satisfaction of the Learned Judge, Special Court under the NDPS Act, Alipore, South 24 Parganas subject to the condition that they shall appear before the learned trial court regularly on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail is, thus, disposed of.

(Joymalya Bagchi, J.)

(Bivas Pattanayak, J.)