

11.02.2021
Item no.10
Court No.28
Avijit Mitra

C.R.M.8503 of 2020 (through video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with NCB Crime No.06/NCB/KOL/2020 dated 05.02.2020 under Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985;

And

In Re : Bhim Shankar Dubey

.... petitioner

Mr. Rajmohan Chatteraj,

Ms. Divya Dubey

....for the petitioner

Mr. Y.J. Dastoor, Ld. A.S.G.,

Mr. Phiroze Edulji,

Mr. Ravi Ranjan Kumar

.....For the N.C.B.

The learned advocate appearing for the petitioner submits that from the possession of the petitioner 15 Kg. 850 g. of contraband (ganja) were recovered and as such, the petitioner is entitled to the benefit of intermediate quantity for which the provision of Section 37 of the N.D.P.S. Act are not applicable. Learned advocate further submits that the petitioner is in custody for about 371 days and the investigation is complete as such he may be released on bail on that ground.

Mr. Dastoor, learned Additional Solicitor General appearing for the N.C.B. points out that three persons were travelling and the total quantum of 39 Kgs. of contraband (ganja) were recovered from them. According to him, the petitioner and his associates were aware regarding the total quantity which they were carrying and as such the petitioner cannot be granted the privilege of interpretation of intermediate quantity as submitted before this Court.

We have perused the materials on record as also the earlier orders passed by this Court in CRM No.3552 of 2020, on

assessment of the same, we are of the opinion that there would be constructive possession of the materials which have been recovered from the other accused persons also and as such the total quantum to be assessed in respect of each of the accused is to be 39 Kgs. as such the provisions of Section 37 of the N.D.P.S. Act are attracted and the petitioner is not entitled to be released on bail.

The application for bail being C.R.M. No.8503 of 2020 is, accordingly, rejected.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)