

12.02.2021
Item No.11
Ct.No.28
Subha
rejected

C.R.M. 8804 of 2020
(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In the matter of : Paritosh Sarkar. ... Petitioner.

Mr. Sayan De
Mr. Kaustuv Shome ... For the Petitioner.

Mr. Sanjoy Bardhan
Ms. Manisha Sharma ... For the State.

The present application under Section 439 of the code of Criminal Procedure has been preferred by the petitioner in connection with Special Case No. 57/2018 arising out of Balurghat P.S. Case No. 263 of 2017 dated 23rd June, 2017 under Sections 22(C), 23(C), 27A of the NDPS Act.

Mr. De, learned advocate appearing for the petitioner submits that he has been falsely implicated in the instant criminal proceedings and was abruptly arrested on 4th February, 2019 and since then he is languishing in jail.

According to the learned advocate for the petitioner, not a single witness has been examined till date and there

are anomalies in the seizure list which gives serious doubt regarding the authenticity of the case and the present petitioner has been victimized in the alleged offence.

Mr. Bardhan, learned advocate appearing for the State submits that written instructions have been received from the Inspector-in-Charge, Balurghat Police Station, Dakshin Dinajpur wherein he has narrated regarding the availability of the seven witnesses associated with the Border Security Force.

Let the written instructions submitted by the I/C Balurghat PS, Dakshin Dinajpur through the learned advocate appearing for the State be kept with the record.

We also find from the said instructions that the concerned Inspector-in-Charge has categorically stated that the BSF personnel will appear before the learned court below to depose as and when directed by the learned trial court.

In view of the aforesaid, Mr. Bardhan, learned advocate for the State submits that all steps would be taken by the prosecution to complete the trial as expeditiously as possible.

We have taken into account the materials available in the case diary, the quantum of seizure and as commercial quantity of contraband is involved in this case, we are not inclined to release the petitioner on bail at this stage as Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 is a bar.

Accordingly, the prayer for bail of the present petitioner is, hereby, rejected.

However, the State is directed to complete the examination of the available witnesses within a period of six months from date as the petitioner is in custody for more than 2 years. In case, the prosecution is unable to complete the examination of the majority of the witnesses in the instant case within a period of six months, the petitioner is entitled to renew his prayer for bail after the said period is over.

With the aforesaid observations, the application for bail being CRM 8804 of 2020, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)