

16.03.2021

Item No.51

Ct.No.28

dc.

Rejected

C.R.M. 9196 of 2020

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with English Bazar P.S. Case No. 454 of 2020 dated 02.06.2020 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Case No. 41/2020).

And

In Re : **Md. Kamilul Akmal @ Md. Kamelul Akmal**
... Petitioner.

Mr. Milon Mukherjee,
Mr. Tapodip Gupta,
Md. Yusuf Ali

... For the Petitioner.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh

... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with English Bazar P.S. Case No. 454 of 2020 dated 02.06.2020 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Mukherjee, learned senior advocate appearing for the petitioner submits that the petitioner was arrested on 2nd June, 2020 and since then he is in custody. According to him, the seizure of 150 gms. brown sugar which was effected from the possession of the petitioner which is below the commercial quantity (as described under the Act) do not

attract the rigours of Section 37 of the N.D.P.S. Act. Additionally he submits that on any stringent condition the petitioner may be granted bail.

Mr. Banerjee, learned advocate appearing for the State opposes the prayer for bail and draws the attention of this Court to the seizure list.

We have perused the materials on record which include the statement of the witnesses as also the seizure list which reflect that from two persons, which include the petitioner and another, 150 gms. of contraband was seized from each of them. Having regard to the conscious possession of the petitioner regarding the quantum which has been seized by the investigating agency, we are of the opinion that the total seizure is of 300 gms. and as such, the provisions of Section 37 of the N.D.P.S. Act are attracted. Accordingly, the petitioner is not entitled to be released on bail and his prayer for bail is **rejected**.

The application for bail, being CRM 9196 of 2020, is, thus, dismissed.

(Harish Tandon, J.)

(Tirthankar Ghosh, J.)