

02.02.2021

Item No.9

Ct.No.28

s.d.

rejected

C.R.M. 9311 of 2020

(Via Video Conference)

In Re : An Application for anticipatory bail under Section 438 of the Code of Criminal Procedure.

And

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

Mr. Kamalesh Saha

... For the Petitioner.

Mr. Subroto Ghosh

Ms. Manisha Sharma

... For the State.

Apprehending arrest in connection with N-193/2019 arising out of Bagdah Police Station Case No. 601 of 2019 dated 02.11.2019 under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, the present application has been filed.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for 400 days and is unnecessarily being detained as the chemical examiner's report has not been submitted and as such the case cannot proceed.

Learned advocate for the petitioner further submits that the subject-matter of the case relates to 5 litre of Codeine mixture being recovered from the possession of the petitioner.

Learned advocate for the State opposes the petitioner's prayer and draws the attention of this Court to the seizure list. According to the learned advocate for the State the recovery being made from the possession of the petitioner is above commercial quantity and as such he is unable to be released on bail.

We have perused the materials in the case diary as also the seizure list and having regard to the fact that above commercial quantity of contraband was recovered from the possession of the present petitioner, we are of the opinion that the petitioner has unable to overcome the rigors of Section 37 of the Narcotic Drugs and Psychotropic Act and as such he is not entitled to bail and the bail prayer of the petitioner is rejected.

However, having regard to the fact that the charge-sheet was submitted in the month of January, 2020 and till date, the chemical examiner's report has not been submitted by the Investigating Officer of the case, we direct the learned Special Court to take steps so that the Investigating Officer makes available the chemical examiner's report within 60 days from the date of communication of this order. .

With the above observations, the application being CRM 9311 of 2020 is, thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)