

15.02.2021
Court No.28
Item No. 23
Krishnendu
Rejected

C.R.M.11162 of 2020
(Via video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : **Ali Hasan Sardar @ Ali Hassain Sardar**

Petitioner

Mr. Pronojit Roy

For the Petitioner

Mr. Sudip Ghosh,
Mr. Bitasok Banerjee

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Baduria Police Station Case No. 310 of 2020 dated 15.06.2020 under section 21(c) of the Narcotic Drugs and Psychotropic Substances Act (Case No. N-128 of 2020).

The learned advocate appearing for the petitioner submits that although there were recovery of 5.2 liters of Codeine mixture from the possession of the petitioner yet at the time of submission of the charge sheet, the chemical examiner's report was not produced before the learned Court below when the cognizance was taken. The learned advocate further submits that the petitioner is in custody for 245 days and as investigation has been concluded, his further detention may not be warranted.

Mr. Banerjee, learned advocate appearing for the State submits that the contraband, so seized, was from the exclusive

possession of the present petitioner and as such he cannot be released on bail.

We have taken into account the materials appearing against the petitioner in the case diary and as commercial quantity of contraband is involved, we are of the opinion that section 37 of the N.D.P.S. Act is attracted. As such, the petitioner is not entitled to be released on bail. Accordingly, the prayer for bail of the petitioner is rejected.

However, both the parties have submitted that the chemical examiner's report till date has not been submitted before the learned Trial Court.

In view of the aforesaid, the Special Judge under N.D.P.S. Act, Barasat, North 24-Parganas is directed to take steps against the Investigating Officer so that expeditiously the chemical examiner's report may be submitted in connection with this case.

With the aforesaid observations, the application for bail, being CRM No.11162 of 2020, is disposed of.

(Tirthankar Ghosh, J)

(Tapabrata Chakraborty, J)