

04.04.2022

Sl. 62
Court No.29
suvayan
(Allowed)

C.R.M. (NDPS) 27 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.01.2022 in connection with **Lalgola** P.S. Case No. **698/2021** dated **17/09/2021** under Sections **21(c)/29** of the Narcotic Drugs and Psychotropic Substances Act arising out of NDPS case No.198/2021.

And

In the matter of: Monir Sk.

....petitioner

Mr. Jisan Iqubal Hossain

...for the petitioner.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

...for the State.

Petitioner seeks bail.

Learned Advocate appearing for the petitioner submits that the petitioner is in custody in excess of 200 days. He refers to the seizure list and submits that no narcotic was recovered from the petitioner. Therefore, the petitioner is being proceeded against on the basis of the statement of the co-accused made while in custody. Therefore, the petitioner should be enlarged on bail.

Learned Advocate appearing for the State submits that six persons were apprehended with commercial quantity of narcotic. However, in the seizure list only two accuseds signed in the same. He refers to the statement of the independent witnesses recording the seizure.

Although, the arrest memo speaks of six accuseds including the petitioner being arrested at the same time, the seizure list speaks of two persons. Commercial quantity of narcotic, therefore, is deemed to be seized from those two persons who are in the seizure list.

Considering the fact the name of the petitioner does not appear from the seizure list and considering the fact that police are

yet to establish nexus between the petitioner and the co-accused who were arrested with the commercial quantity of narcotic, we are of the view that the petitioner is able to overcome the restrictions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Moreover, the police filed charge-sheet.

Considering the period of detention of the petitioner and the fact that the police filed charge-sheet and in view of the petitioner being able to rebut the presumption under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, we grant bail to the petitioner.

Accordingly, the petitioner be released on bail upon furnishing a Bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court under the NDPS Act, Berhampore, Murshidabad subject to the condition that during bail the petitioner shall appear before the learned trial court on the date fixed till disposal of the trial and the petitioner shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

Accordingly, the prayer for bail of the petitioner is allowed.

CRM (NDPS) 27 of 2022 is, thus disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

