

25.02.2022
Court No.32
Item No. 14
Avijit Mitra

C.R.M. (NDPS) No.108 of 2022

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

And

In Re : Sk. Ajijul & anr.

Petitioners

Mr. Sujan Chatterjee,
Mr. Sanat Kumar Das

For the Petitioners

Mr. Sanjoy Bardhan,
Mr. Santanu Chatterjee

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Memari Police Station Case No. 319 of 2019 dated 15.06.2019 under sections 21(C)/29 of the N.D.P.S. Act.

Mr. Chatterjee, learned advocate appearing for the petitioners submits that the petitioners have been falsely implicated. There had been no recovery of contraband substance above commercial quantity from the possession of the petitioners. They are languishing in custody for about 1 year and 11 months and there is also no possibility towards conclusion of the trial in the near future since out of 12 witnesses none had been examined till date though charges have been framed. In the said conspectus, the petitioners may be enlarged on bail on any stringent condition.

Mr. Bardhan, the learned advocate appearing for the State submits that though there had been no recovery of any contraband substance above commercial quantity from the

possession of the petitioners, they are named in the F.I.R. and they fled from the spot. They have criminal antecedent. It thus cannot be totally ruled out at this stage that the petitioners had no involvement in the alleged offence.

In reply, Mr. Chatterjee submits that cases as referred to by Mr. Bardhan are not involving narcotic substance.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

In the supplementary chargesheet as submitted on 20th November, 2019, it has *inter alia* been stated that sufficient evidence could not be collected against the petitioners herein. In view thereof and since no contraband substance above commercial quantity was recovered from the possession of the petitioners and as there is also no possibility towards early conclusion of the trial in the near future, we are of the opinion that the petitioners have been able to rebut the presumption under Section 37 of the N.D.P.S. Act and their further detention is not necessary.

Accordingly, we allow this application and direct that the petitioners, namely, **Sk. Ajijul and Sk Kalo**, shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Judge, 3rd Special court (NDPS Act), Purba Bardhaman with a further condition that the petitioners shall not leave the jurisdiction of Pandua Police Station save and except for attending the learned Court below on all the dates as specified for hearing.

The petitioners shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioners' bail without any further reference to this Court.

Accordingly, the application for bail, being CRM (NDPS) No.108 of 2022, is disposed of.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)