

21.02.2022

Item No.33

Court No.32

ss

C.R.M. (NDPS) 109 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure Code.

And

In Re: Haripada Karmakar

... Petitioner.

Mr. Debarshi Brahma

Mr. Sagnik Mukherjee

... for the Petitioner.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Hogalberia P.S. Case No. 116 of 2020 dated 27.08.2020 under Sections 21(c)/29 of the NDPS Act.

The learned Advocate appearing for the petitioner submits that in the memo of arrest the petitioner was shown to have been arrested on 27.08.2020 at 20.26 hours but in the said memo, the column no.10 [*Signature of the witness (either a member of family or a respectable person of the locality)*] was blank. Absence of any signature in column no.10, gives rise to a reasonable apprehension that the arrest of the petitioner may not have occurred in the manner as alleged by the prosecution. Considering such issue the co-accused person namely, Sukesh Mondal @ Budesh had been granted bail by this Court on 16.12.2021 after he had suffered detention for about 450 days. He further submits that the petitioner is languishing in custody for more than 530 days and

there is also no possibility towards conclusion of the trial in the near future.

Mr. Bardhan, learned Advocate appearing on behalf of the State opposes the petitioner's prayer and submits that the statutory restrictions are attracted in the facts and circumstance of the case. Answering our query, he submits that upon completion of investigation charge-sheet has been submitted.

Heard the learned Advocates appearing for the respective parties and upon assessing the materials in the case diary we are *prima facie* of the opinion that the role assigned to the petitioner is similar to that of Sukesh Mondal @ Budesh, who has already been granted bail. The absence of independent witness at the time of seizure has also not been properly explained by the prosecution. In the said conspectus, we are of the opinion that further detention of the petitioner, who is in custody for more than 530 days, is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Haripada Karmakar**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Judge, Special Court, N.D.P.S. Act, Nadia at Krishnagar.

The petitioner shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

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

With the aforesaid observations, the application for bail, being CRM (NDPS) 109 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.)