

CRM (NDPS) 110 of 2022
(via video conference)

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

And

In Re : Aryan Dev @ Vivan

.....Petitioner

Mr. Anand Keshari
Mr. Sekhar Mukherjee
Mr. Gaurav Kumar

.....for the Petitioner

Mr. Saswata Gopal Mukherji, Ld. PP
Mr. Sanjoy Bardhan
Mr. Rudradipta Nandy

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with New Alipore PS Case No. 65/2021 dated 19.02.2021 under Sections 21(b)/29/27A of Narcotic Drugs & Psychotropic Substances Act.

Mr. Keshari, learned senior advocate appearing for the petitioner submits that the petitioner is in custody for about 11 months and though upon completion of investigation charge sheet has been submitted, there is no possibility towards conclusion of the trial in the near future. The statutory restrictions under Section 37 of the NDPS Act are not attracted in the instant case, since no contraband substance above commercial quantity was recovered from the possession of the petitioner. Other accused persons, namely, Jeetendra Kumar Singh, Rakesh Kumar Singh, Amrita Singh and one, Daim

Akhtar, have already been enlarged on bail by different coordinate Benches of this Court. In view thereof, further detention of the petitioner is not warranted and he may be enlarged on bail on any stringent condition.

Drawing our attention to the statements of the witnesses, as recorded under Sections 161 and 164 of the Code and other materials in the case diary, Mr. Mukherji, learned Public Prosecutor appearing for the State opposes the petitioner's prayer and submits that there are strong incriminating materials on record against the petitioner and as such he is not entitled to the relief as prayed for. He is a resident of Bangalore and there is a possibility that he may flee from justice. Let the memo of evidence and orders passed in respect of the co-accused persons, as produced, be kept on record.

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

Prima facie, we do not find any material connecting the petitioner with any narcotic trail or any money trail. Upon assessing the materials in the case diary, it *prima facie* appears that the role assigned to the petitioner is similar to that of the co-accused persons, who have already been granted bail by co-ordinate Benches of this Court. The statutory restrictions are not attracted since the dispute pertains to an intermediate quantity of contraband substance. The materials in the case diary also do not *prima facie* justify any case of conspiracy against the petitioner. In view thereof and since upon completion of

investigation, charge sheet has already been submitted, we are of the opinion that further detention of the petitioner, who has already suffered incarceration for about 11 months, is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Aryan Dev @ Vivan**, 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 Special Court under the NDPS Act, Alipore, South 24 Parganas and on further condition that he shall report to the Officer-in-Charge of the concerned police station once in a week until further orders. He shall also intimate the address where he would be residing to the said Officer-in-Charge immediately.

It is further directed that the petitioner shall appear before the learned trial court on every date of hearing and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever. He shall not travel outside West Bengal without the prior leave of the learned trial court and shall surrender his passport, if any, before the learned trial court immediately. He shall fully co-operate with the Investigating Authority in case of further investigation, if any.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned trial court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for bail, being CRM (NDPS) 110 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.)