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(AD)

07.04.2022

Court No.29

(Rejected)

C.R.M. (NDPS) 163 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.237/17 arising out of **NCB Crime No. 54/NCB/KOL/2017** under Sections **20(b)(ii)(C)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985 for the violation of the prohibition imposed under Section **8(c)** of the NDPS Act, 1985.

And

In the matter of: Soumajit Bar alias Soumyajit Bar alias Lalu

....petitioner.

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

...for the petitioner.

Mr. Y. J. Dastoor, Ld. ASG
Mr. Uttam Basak

... for the NCB.

Petitioner renews the prayer for bail.

Learned Advocate appearing for the petitioner submits that another co-accused was enlarged on bail by the Hon'ble Supreme Court on the ground of period of detention. He refers to the order dated October 7, 2021 passed in Special Leave to Appeal (Crl.) No.5617 of 2021.

Learned Additional Solicitor General submits that the Tapan Das was found at the locale as he came to buy a portion of the narcotics for his consumption. The narcotics was seized from the house belonging to the father of the petitioner. The petitioner is complicit in the incident. He submits that the petitioner was absconding for a period of one year.

This is the fifth application for grant of bail.

The petitioner was absconding for one year. Commercial

quantity of narcotics was recovered from the house belonging to the father of the petitioner. The petitioner can be said to be in conscious possession of such commercial quantity of narcotics. The petitioner otherwise is not entitled to bail under Section 37 of the NDPS Act, 1985 since the petitioner is not able to rebut the presumptions thereunder. The petitioner is in custody in excess of three years and six months. The Court is informed that only one prosecution witness was examined. Tapan Das whose complicity in the incident was a lesser degree as submitted on behalf of the Narcotics Control Bureau was enlarged on bail by the Hon'ble Supreme Court on a period of detention of four years. Tapan Das was not an absconder.

In such circumstances, we are unable to enlarge the petitioner on bail.

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

C.R.M. (NDPS) 163 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)