

CRM (NDPS) 168 of 2022
(Via Video Conference)

09.02.2022

Sl. 24
Court No.29
(sourav)
(Allowed)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **02.02.2022** in connection with **English Bazar** Police Station Case No. **900** of **2021** dated **01.08.2021** under Sections **21(C)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in connection with Special Case No. 63 of 2021).

And

In the matter of: **Sayed Hossain @ Sayem Sk. & Anr.**

....petitioners.

Mr. Sourav Chatterjee

Mr. Dipayan Kundu

Mr. Avinaba Patra

...for the petitioners.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

... for the State.

Petitioners seek bail.

Learned Advocate appearing for the petitioner submits that both the petitioners are in custody for varying periods in excess of 120 days. He submits that no recovery was made from the possession of the petitioners. The petitioners are sought to be proceeded against on the basis of the statement of the co-accused made while in custody. Searches in the residence of the petitioners did not yield any result so far as the police were concerned. The police filed charge-sheet and, therefore, further detention of the petitioners are not required.

Learned advocate appearing for the State submits that there are criminal antecedents so far as the petitioner no. 2 is concerned. In response to a query of the Court, he is unable to place any material from the case diary showing any nexus between any of the petitioners with the co-accused who was arrested along with the commercial quantity of narcotic, at this stage.

Considering the fact that no narcotic was recovered from any of the petitioners and considering the fact that the petitioners are sought to be proceeded against on the basis of the statement of the co-accused made while in custody, we are of the view that the petitioners are able to overcome the restrictions under Section 37 of the NDPS Act, 1985. The petitioner no. 2 is yet to be found guilty in any of the two police cases which the learned advocate for the State refers to.

In such circumstances, we grant bail to the petitioners.

Accordingly, the petitioners 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 local, to the satisfaction of the learned Additional District Judge, Special Court, Malda, subject to the condition that during bail they shall appear before the learned trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioners fail 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.

The application for bail being **CRM (NDPS) 168 of 2022** is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

