

CRM(NDPS) No.212 of 2022

Via video conference

11.03.22

(S.R.)

Sl.13

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Kaliganj** Police Station Case No.27 of 2020 dated 15/01/2020 under Sections 20(b)/29 of the NDPS Act (corresponding to NDPS Case No.5 of 2020);

And

In re: Swadesh Biswas

... petitioner.

Mr. Prabir Majumder

... for the petitioner.

Mr. Saryati Datta

... for the State.

Mr. Majumder, learned lawyer appearing for the petitioner submitted that the petitioner is falsely roped in this case, as it is one Mahidul Mondal @ Badal Mondal from whose custody intermediate quantity of contraband substance was recovered. Subsequently, he was granted bail. The present petitioner is in custody for more than 750 days. There is no scope of immediate commencement of trial, as supplementary charge sheet has not yet been filed. Therefore, he prayed for bail on any stringent condition.

Mr. Datta, learned lawyer appearing for the State strongly opposed the bail application on the ground that commercial quantity of contraband substance was recovered on the basis of confessional statement of the present petitioner, and that rigours of Section 37 of NDPS Act applies in this case.

We have heard rival submissions. Perused the case diary. Contraband substance above commercial quantity was recovered at the instance of the present petitioner on the basis of his statement leading to recovery. Therefore, the rigours of Section 37 applies in this case as stated by Mr. Datta. Nothing is there in the record for which reasonably it can be presumed that the petitioner is innocent. At this

stage, although supplementary charge sheet along with the chemical report has not been filed, we cannot jump to a conclusion that trial would be delayed in near future. Considering the incriminating materials and seriousness of the offence, we are not inclined to allow the instant bail application and the same stands rejected.

However, we direct the Director of Central Forensic Science Laboratory, 30 Gorachand Road, Park Circus, Beniya Pukur, Kolkata – 700 014 to submit the chemical report of the case preferably within a period of one month positively from the date of communication of this order.

The application for bail being CRM(NDPS) No.212 of 2022 is, accordingly, dismissed.

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.)