

18.04.2022

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Ct. No. 29
KAUSHIK
REJECTED

C.R.M. 3941 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Mothabari** Police Station Case No. **157** of **2020** dated 16.04.2020 under Section 27A of the Drugs and Cosmetics Act and under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Md. Sabir Sk

..... petitioner

Mr. Milon Mukherjee
Ms. Sreyashee Biswas
Ms. Benazir Hasna

....for the petitioner

Mr. Saryati Dutta

....for the State

Petitioner renews the prayer for bail.

Learned senior advocate appearing for the petitioner refers to the orders passed by the Jurisdictional Court. He submits that, the seized articles were sent to the Central Forensic Science Laboratory (CFSL) as also to the State Drugs Control & Research Laboratory, Kolkata. He submits that the report from the State Drugs Control & Research Laboratory, Kolkata was received by the Jurisdictional Court. Cognizance was taken. He refers to Section 8 of the Drugs and Cosmetics Rules, 1945 as also to Section 293(4) of the Code of Criminal Procedure. He submits that, since the report is not from the CFSL, it cannot be said that the narcotic was seized from the

petitioner. He refers to Section 18(A) of the Drugs and Cosmetics Act.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that, commercial quantity of narcotic was seized from the possession of the petitioner.

Several orders of the Jurisdictional Court were referred to on behalf of the petitioner. It appears from the order dated June 23, 2020 that samples were sent to the State Drugs Control & Research Laboratory, Kolkata for examination. It appears from the order dated September 21, 2020 that samples were also sent to the Director, State Drugs Control & Research Laboratory, Kolkata for examination. the Jurisdictional Court by the order dated October 12, 2020 considered the supplementary charge-sheet and the examination report from the State Drugs Control & Research Laboratory, Kolkata. The Jurisdictional Court was pleased to take cognizance on October 12, 2020.

The order taking cognizance by the Jurisdictional Court is not under challenge.

In such circumstances, since commercial quantity of narcotic was seized from the possession of the petitioner, we are of the view that the petitioner is unable to overcome the restrictions of Section 37 of the NDPS Act, 1985. Consequently, we are unable to grant bail to the petitioner.

In such circumstances, prayer for bail of the petitioner is rejected and the application being CRM 3941 of 2021 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)