

08.06.2022.

11.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 515 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.58 of 2021 arising out of Dhubulia P. S. Case No.183 of 2021 dated 09.06.2021 under Sections 21(b)(ii)(c)/ 29 of the N.D.P.S. Act.

In the matter of : Bama Sk @ Kamal Sk.

.... Petitioner.

Mr. Arindam Jana,

Mr. Sumanta Das.

...for the Petitioner.

Mr. Swapan Banerjee,

Mr. Suman De.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Petitioner renews his prayer for bail. It is submitted that he is in custody for 357 days. It is further submitted that the alleged recovery was made while he was in custody and that too from an abandoned railway quarter which is accessible to all. Co-accused viz., Prokash Sarkar @ Gobinda has been granted bail by a Co-ordinate Bench of this Court. There is hardly any progress in the matter since the last rejection of bail by this Court.

Learned Senior Government Advocate appearing for the State opposes the prayer for bail and submits that 28 kgs. of ganja was recovered from co-accuseds. From their statements name of the petitioner had transpired. On his leading

statement 5 kgs. of ganja was recovered from the self-same spot, i.e. an abandoned railway quarter. Co-accused viz., Prokash Sarkar @ Gobinda does not stand on the same footing with the petitioner as no recovery was made from his statement. Learned Counsel further submits that examination of witnesses are in progress.

We have considered the materials on record. Recovery of 5 kgs. of ganja was made from the self same abandoned railway quarter wherefrom 28 kgs. of ganja was recovered earlier by the investigating agency. It is difficult to appreciate how the remaining quantity of ganja was not noticed at the place of occurrence when earlier search was effected by police.

Be that as it may, seizure was effected on 17.6.2021 from an abandoned place which is accessible to all. Petitioner had been arrested in connection with the present case on 14.6.2021 and was not a free agent at the time when the recovery was made. There is very slow progress in the matter since the rejection of bail by this Court in September, 2021.

In view of the aforesaid facts and the extent of complicity of the petitioner, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the N. D. P. S. Act and he is entitled to be released on bail.

Accordingly, the petitioner 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 local, to the satisfaction of the learned Special Judge under N.D.P.S. Act, Krishnanagar, Nadia subject to condition that the petitioner shall appear

before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)