

SL. 02
26.05.2022
Court No. 05
S Das/AJ

CRM (NDPS) 519 of 2022

In Re: - An application for bail under section 439 of the Code of Criminal Procedure filed on 23.05.2022 in connection with Bongaon Police Station Case No. 698 of 2019 dated 18.09.2019 under Sections 21(C) of the NDPS Act.

And

In the matter of: **Alauddin Mallick.**

.... Petitioner

Mr. Angshuman Chakraborty.

...for the petitioner.

Md. Anwar Hossain,

Ms. Sreyashee Biswas.

... for the State.

Learned Counsel appearing for the petitioner places reliance on an order dated 8th December, 2021 passed by the Hon'ble Supreme Court in connection with a Special Leave Petition, wherein the Hon'ble Supreme Court was pleased to hold that, without going into the merits/demerits of the matter, but taking into consideration the facts and circumstances on record, in the view of the Hon'ble Supreme Court the petitioner had made out a case of post-arrest bail.

It is also contended that the bar under Section 37 of the NDPS Act is not absolute and, in a fit case, the Court always has the discretion to grant bail. It is further submitted that there are as many as eight witnesses in the matter, out of whom only two have been examined till date. As such, since the petitioner has been languishing since 18.09.2019 behind bars, it is contended that the petitioner ought to be enlarged on bail.

Learned Counsel appearing for the State submits that the trial of the main matter is going on and the next two dates fixed for further evidence are 30th May, 2022 and 31st May, 2022. As such, it is contended that the prayer for bail ought to be rejected at this stage.

Upon considering the order of the Hon'ble Supreme Court cited by the petitioner, it is evident that the Hon'ble Supreme Court, in the facts and circumstances of the said case, "without going into merits/demerits of the matter", had observed that in the view of the Hon'ble Supreme Court the petitioner had made out a case of post-arrest bail.

However, we do not find any mitigating circumstance in the present case, particularly since the trial is at an advanced stage, to grant the benefit of bail to the present petitioner.

Accordingly, CRM (NDPS) 519 of 2022 is rejected.

The learned Trial Judge is requested, however, to expedite the trial of the connected case and to dispose of the case as expeditiously as possible.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)