

26.05.2022
Court No.05
Item No. 19
D.C/AM

C.R.M. (NDPS) No.536 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with N.D.P.S. Case No. 215 of 2021 arising out of Lalgola Police Station Case No.724 of 2021 dated 05.10.2021 under Sections 22(c)/29 of the N.D.P.S. Act, 1985;

And

In Re : Aminul Haque @ Islam

Petitioner

Mr. Sourav Chatterjee,
Mr. Arnab Saha

For the Petitioner

Mr. Prasun Kumar Dutta,
Mr. Subrata Roy

For the State

Learned counsel for the petitioner contends that, in respect of other co-accused persons, although on the ground that the name of the said co-accused persons did not find mention in the seizure list, the benefit of bail was granted. By converse logic, it is contended that since the petitioner was arrested for the same offence, the petitioner ought also to be granted bail.

More particularly, it is submitted by learned counsel by placing reliance on paragraph 10 of the bail application that the petitioner is suffering from serious ailments, which is also corroborated by medical reports.

Learned counsel further points out that, vide order dated May 18, 2022 passed in WPA 7862 of 2022, a Coordinate Bench of this Court had directed that due to poor health condition of the present petitioner, in the event any appropriate representation or suggestion of treatment, supported by appropriate documents was made by the petitioner, the Superintendent, Central Correctional

Home, Berhampore, Murshidabad might take suitable steps thereon in accordance with law expeditiously.

It is submitted that since the medical papers corroborate ailments of the petitioner, the present bail application ought to be heard on a lenient footing in favour of the petitioner.

Learned counsel appearing for the State, however, opposes the prayer for bail and submits that the charges are about to be framed and that the ground on which the other co-accused was granted bail, as opposed to the present petitioner, was merely that the names of the said co-accused persons were not mentioned in the seizure list. However, since the name of the petitioner finds place in all the relevant documents, including the F.I.R. and the seizure list, there is no such ground available for granting bail to the petitioner.

In reply, learned counsel for the petitioner controverts the contention of the State that the charges are about to be framed, since such anticipation cannot be drawn at the present stage, it is submitted.

Be that as it may, without making any comments on the merits of the allegations levelled against the petitioner, we find that, unlike the other case cited, where a co-accused was released on bail since the name of the said co-accused was not there in the seizure list, the name of the present petitioner finds place in the F.I.R. as well as the seizure list, we find no mitigating circumstance to grant bail to the petitioner.

However, since the petitioner is apparently in a serious condition in so far as his poor health is concerned, it is expected

that the police authorities shall take appropriate care to provide sufficient medical treatment to the petitioner, commensurate with the gravity of the ailments being suffered by the petitioner.

Hence, CRM (NDPS) 536 of 2022 is dismissed in the light of the above observations.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)