

15.06.2022.
13.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 613 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Raghunanthganj P. S. Case No.669 of 2021 dated 21.10.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

In the matter of : Jahir Sk.

.... Petitioner.

Mr. Soumik Ganguli,
Mr. Diptendu Banerjee,
Ms. Pinky Sarkar.

...for the Petitioner.

Mr. Saryati Datta.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Learned advocate appearing for the petitioner submits that alleged narcotic substance seized does not fall within the commercial quantity in the light of Section 2(viia) of NDPS Act.

Learned advocate appearing for the State submits 250 gms. of heroin was recovered from the petitioner.

Section 2(viia) of the NDPS Act reads as follows :-

“Section 2(viia). ‘Commercial quantity’ in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette.”

In the table appended to the Act with regard to **‘heroin’** 250 gms. is noted under the heading **‘commercial quantity’**.

Conjoint reading of the aforesaid provisions would show recovery of a quantity above 250 gms. of heroin would attract

Section 21(c) of the NDPS Act. In view of the aforesaid facts, we are of the opinion quantity of narcotic substance allegedly recovered from the possession of the petitioner would not attract Section 21(c) of the NDPS Act and restrictions under Section 37 of the NDPS Act relating to grant of bail are not applicable in the facts of the case. Under such circumstances and in view of the period of detention suffered by the petitioner i.e. 236 days, we are inclined to grant bail to the petitioner.

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 Judge, Special Court under N.D.P.S. Act, Murshidabad at Berhampore 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.)