

22.06.2022

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rejected

C.R.M. (NDPS) 683 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhagwangola Police Station Case No. 434 of 2021 dated 26.09.2021 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Bahadur Sk. .... petitioner

Mr. Ali Ahsan Alamgir

Ms. Rabia Khatoon

Ms. Riya Das

... for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

... for the State

Petitioner is in custody for 186 days. Apprehending arrest the petitioner had approached this Court seeking anticipatory bail in CRM 7376 of 2021. During pendency of the application, he was arrested. However, his arrest was not intimated to the co-ordinate Bench of this Court and the Bench whom consideration of the materials placed it allowed the prayer for pre-arrest bail. On the very next day, it is alleged on the leading statement of the petitioner 30 bottles of Phensedyl Syrup were recovered from his residence. While the petitioner submits recovery is patently absurd, learned Counsel appearing for the State contends recovery was made in the presence of the relations of the petitioner as well as an independent witness whose statement is recorded at page no. 118 of the case diary.

We have considered the materials on record. The present case discloses a disturbing state of affairs which is prompted by the peculiar practice of producing photocopies of investigation records/ case diaries during hearing of bail applications.

At the time of hearing of the application for anticipatory bail of the petitioner photocopy of the case diary was placed before the co-ordinate Bench. None of the parties apprised the Bench with regard to development in investigation including arrest of the petitioner which would have rendered the application infructuous. On the basis of the materials placed before it, the Bench was persuaded to pass an order of pre-arrest bail.

The aforesaid situation underscores the importance of placing original case diaries for the purpose of disposal of bail /anticipatory bail applications. We deprecate the practice of producing photocopies of case diaries while dealing with bail/anticipatory bail applications. We direct the office of the Public Prosecutor to produce original case diaries during hearing of bail /anticipatory bail applications unless otherwise directed by the Bench concerned.

Public Prosecutor is also directed to circulate a copy of this order to all police officers for due intimation and compliance.

Coming to the facts of the case we note petitioner was arrested on 13<sup>th</sup> December, 2021 and on his leading statement recovery of narcotic substance above commercial quantity was

made from his residence. Recovery of narcotic substance was witnessed by independent person whose statement has also been recorded in the course of investigation.

Thus, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

To expedite the trial, we direct chemical examiner's report be placed before the trial court within four weeks from date.

**(Ananya Bandyopadhyay, J.)**

**(Joymalya Bagchi, J.)**