

05.01.2022
Court No.32
Item No. 224
Avijit Mitra

C.R.M. 6381 of 2021 (Through video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Jakir Hossain & anr.

.... petitioners

Mr. Biswajit Manna,
Mr. Anisur Rahman

...for the petitioners

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Majhi

...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Raninagar Police Station Case No.422 of 2020 dated 30.10.2020 under sections 21(c)/29 of N.D.P.S. Act and Section 14 of Foreigners Act, 1946.

Mr. Manna, learned advocate appearing for the petitioners submits that the petitioners have been roped in merely on the basis of suspicion. There had been no recovery of contraband substance above commercial quantity from the possession of the petitioners. They are languishing in custody for about 168 days and no useful purpose will be served by further detaining the petitioners since upon completion of investigation chargesheet has been submitted.

Mr. Bardhan, learned advocate appearing for the State submits that the petitioners' names had transpired on the basis of statements of two co-villagers. He, however, does not dispute the fact that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioners.

Heard the learned advocates for the respective parties and considered the materials in the case diary.

It appears that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioners and as such the rigors of Section 37 of the N.D.P.S. Act are not attracted. The petitioners had already suffered long incarceration and there is also no possibility towards early conclusion on the trial. In view thereof, we are of the opinion that further detention of the petitioners is not warranted.

Accordingly, we allow this application and direct that the petitioners, namely, **Jakir Hossain and Mainul Islam**, shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Judge, Special Court under N.D.P.S. Act, Berhampore at Murshidabad.

The petitioners shall attend the learned Court below on all the dates, as specified for hearing and shall not intimidate the witnesses or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioners fail to comply with the aforesaid directions without any justifiable cause, the

learned trial court would be at liberty to cancel their bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 6381 of 2021, is disposed of.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)