

19.01.2022

Court No.32

rpan/**248**

CRM 6678 of 2021

[Through Video Conferencing]

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

And

In Re : **Sk. Farhan Ahmed**

- Petitioner

Mr. Bani Brata Datta,
Mr. Fasiur Rahman Molla
... for the Petitioner.

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Mr. Sanjoy Bardhan,
Mr. Rudradipta Nandy,
Mr. Ranadeb Sengupta
... for the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with New Alipore Police Station Case no.65 of 2021 dated 19.02.2021 under Sections 21(b)/29/27A of the Narcotic Drugs and Psychotropic Substances Act, 1985 [charge-sheeted under Sections 21(b)/27A/29/30/58(2) of the Narcotic Drugs and Psychotropic Substances Act, 1985].

Mr. Datta, learned advocate appearing for the petitioner submits that the petitioner is in custody since 9th March, 2021 and though upon completion of investigation charge sheet has been submitted, there is no possibility towards conclusion of the trial in the near future. He further submits that statutory restrictions under Section 37 of the NDPS Act are not attracted in the instant case, since no contraband substance above

commercial quantity was recovered from the possession of the petitioner. Other accused persons, namely, Jeetendra Kumar Singh, Rakesh Kumar Singh, Amrita Singh and one, Daim Akhtar, have already been enlarged on bail by different Division Benches of this Court.

In the said conspectus, further detention of the petitioner is not warranted and he may be enlarged on bail on any stringent condition.

Mr. Mukherjee, learned Public Prosecutor appearing for the State has drawn our attention to the statements of the witnesses, as recorded under Sections 161 and 164 of the Code. He further submits that there had been recovery of an intermediate quantity of contraband substance from the possession of the petitioner and that the State has approached the Hon'ble Supreme Court against the order passed in favour of a co-accused, namely, Rakesh Kumar Singh. Let the memo of evidence and the orders passed in respect of co-accused persons, as produced, be kept on record.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Prima facie, we do not find any material connecting the petitioner with any narcotic trade or any money trail. Telephonic conversations of the petitioner with the co-accused persons, even believed to be true, would not, *prima facie*, justify a case of conspiracy so as to deny his liberty. The statutory restrictions are also not attracted since there had been recovery of an intermediate quantity of contraband substance. In view thereof and since upon

completion of investigation charge sheet has already been submitted, we are of the opinion that further detention of the petitioner, who has already suffered incarceration for about ten months, is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Sk. Farhan Ahmed** 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 a local, to the satisfaction of the learned Judge, Special Court under N.D.P.S. Act, Alipur, South 24-Parganas and on further condition that he shall report to the Officer-in-Charge of the concerned police station once in a week until further orders.

It is further directed that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not tamper with the evidence and/or intimidate the witnesses in any manner whatsoever. He shall not travel outside West Bengal without the prior leave of the learned trial court and shall surrender his passport, if any, before the learned trial court immediately. He shall fully co-operate with the Investigating Authority in case of further investigation, if any.

In the event the petitioner fails to comply with the aforesaid directions, without any justifiable cause, the learned trial court below shall be at liberty to cancel his bail, in accordance with law, without further reference to this Court.

The application for bail, being CRM No.6678 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.

(Ajoy Kumar Mukherjee, J.) (Tapabrata Chakraborty, J)