

04.08.2022.
07.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 849 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with TR No.7 of 2022 arising out of Golabari P.S. Case No. 6 of 2022 dated 06.01.2022 under Sections 27(A)/28/29/30 of the N. D. P. S. Act and adding Section 21(C) of the NDPS Act.

In the matter of : Sk. Rashid @ Rasu Bhai.

... Petitioner.

Mr. Sekhar Kr. Basu, Id. Sr. Adv.,
Mr. Shiladitya Banerjee,
Mr. Abhijit Ganguly,
Mr. Diptangshu Basu.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Baishakhi Chatterjee.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Petitioner is in custody for about 205 days. It is submitted no narcotic substance was recovered from the petitioner. It is further submitted apart from telephonic exchanges, there are no other incriminating materials implicating the petitioner in the alleged crime.

Learned Advocate for the State opposes the prayer for bail. He submits petitioner along with co-accuseds were apprehended while travelling together in a vehicle. On the disclosure statement of co-accused Irshad Khan, 13 kgs. of heroin was recovered from co-accused Babar Mondal. Controlled substances were also recovered from him. Money

trial trend was found in the accounts of Irshad Khan to Tarique Hasan and Shahrukh Khan. Petitioner had harboured co-accused Md. Alfas Khan and Shahrukh Khan at his residence at Odisha. Petitioner has criminal antecedents.

We have considered the materials on record. Admittedly, no narcotic substance is recovered from his possession. However, charge levelled against the petitioner is not one of possession but of conspiracy. Conspiracies are hatched in secrecy and rarely one would find direct evidence to support the charge. To determine whether a charge of conspiracy is established, it is necessary to examine whether there is prima facie evidence with regard to meeting of minds between the conspirators and their conduct before, during and after commission of the crime. Telephonic conversations between petitioner and co-accuseds Irshad Khan and Md. Alfas Khan show meeting of minds between the conspirators.

Other materials on record also corroborate the charge of conspiracy. Petitioner and co-accuseds were travelling together in a vehicle when they were apprehended. On the disclosure statement of co-accused viz., Irshad Khan, 13 kgs. of heroin and controlled substances were recovered from Babar Mondal. Petitioner had harboured co-accuseds Md. Alfas Khan and Shahrukh Khan (to whom monies were transferred by Irshad Khan with regard to the illicit transaction). These circumstances corroborate the telephonic conversations between petitioner and co-accuseds and give rise to a prima

facie inference of conspiracy between them to traffic substances. That apart, petitioner has criminal antecedents.

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

Accordingly, the prayer for bail of the petitioner is rejected.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)