

CRM 7773 of 2021
(via video conference)

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

And

In Re : Azim Dafader alias Habu

.....Petitioner

Mr. Souvik Mitter

Mr. Angshuman Chakraborty

.....for the Petitioner

Mr. Saswata Gopal Mukherji, Ld. PP

Mr. Antariksha Basu

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Amdanga P.S. Case No. 389/21 dated 20.07.2021 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Mitter, learned advocate appearing for the petitioner submits that the petitioner has been roped in on the basis of mere suspicion. The bus that was intercepted, was travelling with 50 passengers. The burden of recovery of contraband substance from the bus had been shifted to the petitioner herein. There was no recovery from the personal possession of the petitioner. As such, the statutory restrictions are not attracted. The petitioner had already suffered incarceration for more than 200 days and there is also no possibility towards early conclusion of the trial. In the said conspectus, the petitioner may be granted bail on any stringent condition, moreso when, upon completion of investigation, charge sheet has also been submitted.

Per contra, Mr. Basu, learned advocate appearing for the State opposes the petitioner's prayer and submits that on the basis of credible information, the bus was intercepted and the driver of the bus, being the petitioner herein opened the dicky wherein a *polythene bag* comprising of 255.5 kgs. of ganja was found. The petitioner was driving the bus all the way from Domkal and in the said circumstances, the statutory restrictions are clearly attracted.

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

It appears that the bus was travelling from Domkal and was intercepted at Amdanga on the basis of source information. The petitioner was the driver of the bus and the other co-accused persons are the khalasi and the conductor. They were all travelling together. A huge quantum of contraband was recovered from the said bus driven by the petitioner. In such circumstances, conscious possession of contraband substance cannot be ruled out and in our view, the rigors of Section 37 of the NDPS Act is attracted. As such, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused at this stage.

The application CRM 7773 of 2021 is, accordingly, dismissed.

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.)