

CRM 8048 of 2021
(via video conference)

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

And

In Re : Biren Kar

.....Petitioner

Mr. Soumik Ganguli
Mr. Sayan Roy

.....for the Petitioner

Mr. Sanjoy Bardhan
Ms. Baishakhi Chatterjee

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Bankura P.S. Case No. 173 of 2021 dated 05.08.2021 under Section 21(b) of the NDPS Act.

Mr. Ganguli, learned advocate appearing for the petitioner submits that there had been no recovery of contraband substance above commercial quantity from the possession of the petitioner and his name has been transpired on the basis of the statement of the other co-accused persons. He further submits that one Sk. Adil from whom an intermediate quantity of contraband substance was recovered, has already been granted bail. Upon completion of investigation, charge sheet has also been submitted and as such, further detention of the petitioner who is already in custody for about 160 days, is not warranted.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner was the owner of the motor-bike which was used for transportation of contraband substance.

Answering a query of this Court he submits that the petitioner was also involved in another case pertaining to contraband substance but has been enlarged on bail in the same.

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

It appears that no contraband substance above commercial quantity was recovered from the possession of the petitioner and that his name has been transpired on the basis of the statement of co-accused persons and as such the rigors of Section 37 of the NDPS Act are not attracted. It further appears that seizure was of an intermediate quantity and one of the persons from whom such contraband substance was recovered, had already been granted bail. As regards the petitioner's antecedent, it appears that he had already been enlarged on bail in the said case. In view thereof, we are of the opinion that further detention of the present petitioner is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Biren Kar**, 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 Special Court under the NDPS Act, Bankura. The petitioner 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 petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel his bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 8048 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.)