

10.01.2022
Court No.32
Item No. 15
Avijit Mitra

C.R.M. 8091 of 2021

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

And

In Re : Munna Sk @ Manarul Hossain

Petitioner

Mr. Mrityunjoy Chatterjee,
Md. Golam Nure Imrohi

For the Petitioner

Ms. Faria Hossain,
Ms. Sonali Das

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Doulatabad Police Station Case No. 37 of 2021 dated 08.03.2021 under sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner is languishing in custody for 200 days and there is no possibility towards early conclusion of the trial. Upon completion of investigation chargesheet has also been submitted. In view thereof, further detention of the petitioner is not warranted.

Mr. Chatterjee further submits that initially there was a seizure of contraband substance above commercial quantity from the possession of two accused persons on 8th March, 2021. The petitioner, however, was arrested on 04th June, 2021 but there had been no recovery of contraband substance above commercial

quantity from his possession. It is only on 06th June, 2021 about 100 bottles of Phensedyl were recovered from a bamboo bush accessible to all. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition. In support of his argument, Mr. Chatterjee placed reliance upon an order passed in CRM No.6827 of 2019. Let the said order, as produced, be kept on record.

Ms. Das, learned advocate appearing for the State opposes the petitioner's prayer and submits that on the leading statement of the petitioner and in presence of the independent witness about 100 bottles of Phensedyl were recovered. In view of such incriminating materials on record, the petitioner is not entitled to the relief as prayed for.

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

Prima facie, there had been recovery of contraband substance above commercial quantity on the basis of the petitioner's leading statement. Initially about 3275 bottles of Phensedyl were recovered from other accused persons. In the said conspectus, the rigors of Section 37 of the N.D.P.S. Act are clearly attracted. As such, the petitioner's prayer for bail is refused. The order upon which reliance has been placed by Mr. Chatterjee is also distinguishable on facts.

Accordingly, the application for bail, being CRM No.8091 of 2021, is 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)