

10.01.2022
Court No.32
Item No. 17
Avijit Mitra

C.R.M. 8116 of 2021

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

And

In Re : Subhankar Bouri @ Subhankar Bauri

Petitioner

Mr. Samrat Chowdhury

For the Petitioner

Mr. Sanjoy Bardhan,
Mr. Palash Chandra Majhi

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Berhampore Police Station Case No.264 of 2021 dated 16.03.2021 under sections 22(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Chowdhury, learned advocate appearing for the petitioner submits that the petitioner was the driver of the vehicle from which contraband substance above commercial quantity was recovered. He has been falsely implicated. The consignor Sakirul Sarkar and the owner of the vehicle namely Ramesh Kumar Giri had already been granted bail and anticipatory bail respectively by Coordinate Benches of this Court. Upon completion of investigation chargesheet has also been submitted and as such, further detention of the petitioner, who is in custody for about 301 days, is not necessary.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and submits that initially 1600

bottles of Phensedyl were recovered from the vehicle driven by the petitioner and two other persons who were there on the vehicle. He further submits that on the leading statement of the petitioner about 2400 bottles of Phensedyl were recovered. In view of such strong incriminating materials, the petitioner is not entitled to the relief as prayed for.

We have 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 from the vehicle driven by the petitioner and as such, his complicity in the alleged offence cannot be ruled out and the rigors of Section 37 of the N.D.P.S. Act are attracted. In view thereof, we are not inclined to exercise any discretion in his favour and as such, his prayer for bail is refused at this stage.

Accordingly, the application for bail, being CRM No.8116 of 2021, is dismissed.

The prosecution is, however, directed to take expeditious steps to obtain the F.S.L. report.

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)