

CRM 8368 of 2021
(via video conference)

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

And

In Re : Gopinath Majumdar

.....Petitioner

Mr. Kishore Datta
Mr. Suman De
Mr. Tarun Chatterjee
Mr. Parvej Anam

.....for the Petitioner

Mr. Sanjay Bardhan
Mr. Nirupam Dhali

.....for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with English Bazar P.S. Case No. 765/2021 dated 06/07/2021 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Datta, learned advocate appearing for the petitioner submits that the petitioner's prayer was last rejected on 7th October, 2021 and subsequent thereto, upon completion of investigation, charge sheet has been submitted on 29th December, 2021. From the charge sheet it would be explicit that there was no recovery of contraband substance from the possession of the petitioner and that his name had transpired on the basis of co-accused statement. In view thereof, the rigors of Section 37 of the NDPS Act are not attracted.

He further submits that since upon completion of investigation, charge sheet has been submitted, further detention

of the petitioner, who is in custody for about 187 days, is not warranted.

Mr. Bardhan, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary including the copy of the charge sheet. Let the copy of the charge sheet, as produced, be kept on record.

Having heard the learned advocates appearing for the respective parties and considering the materials on record, bearing in mind the nature of allegations in the light of the submissions made on behalf of the petitioner and in view of the fact that upon completion of investigation charge sheet has already been submitted, we are of the opinion that further detention of the petitioner, who is in custody for about 187 days, is not necessary.

Accordingly, we allow this application and direct that the petitioner, namely, **Gopinath Majumdar**, 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 Judge under the NDPS Act, 3rd Court, Malda.

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. 8368 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.

(Ajoy Kumar Mukherjee, J.)

(Tapabrata Chakraborty, J.)