

CRM No.8587 of 2021

Via video conference

16.02.22

(S.R.)

Sl.02

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Beldanga** Police Station Case No.401 of 2021 dated 20/08/2021 under Section 20(b)(ii)(c) of the NDPS Act;

And

In re: Bikash Sardar

... petitioner.

Md. Ashraf Ali

Md. Sarahuddin

Md. A. Zaman

... for the petitioner.

Mr. Binay Panda

Mr. Subham Bhakat

...for the State.

Mr. Ali, learned advocate appearing for the petitioner submits that no contraband substance above commercial quantity was recovered from the possession of the petitioner. He has been roped in only on the basis of mere suspicion. His name has transpired on the basis of co-accused statements. In view thereof, the statutory restrictions are not attracted and further detention of the petitioner, who is in custody for about 180 days, may not be necessary and he may be enlarged on bail on any stringent condition, more so when upon completion of investigation charge sheet has been submitted.

Mr. Panda, learned advocate appearing for the State, however, opposes the petitioner's prayer and submits that the person from whom contraband substance was seized contacted the petitioner over a mobile phone. As the said mobile phone belongs to the petitioner, his direct involvement in the alleged offence cannot be ruled out.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary. There had been no

seizure of contraband substance above commercial quantity from the possession of the petitioner. *Prima facie*, from the case diary, as produced, it appears that there was a conversation over the said mobile phone on 1st August, 2021. However, the contraband substance was seized from one Majibul on 20th August, 2021. *Prima facie*, such conversation may give rise to suspicion but would not justify the direct involvement of the petitioner in the alleged offence. In view thereof, we are of the opinion that the statutory restrictions are not attracted. Upon completion of investigation charge sheet has also been submitted and as such, further detention of the petitioner, who is in custody for about 180 days is not necessary. However, his movement needs to be restricted.

Accordingly, the petitioner 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 local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Berhampore, Murshidabad with a further condition that the petitioner shall not leave the jurisdiction of Beldanga Police Station save and except for attending the learned court below on all the dates as specified for hearing.

It is further directed that the petitioner 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 the petitioner's bail without any further reference to this Court.

The application for bail being CRM No.8587 of 2021 is,

accordingly, 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.)