

18.02.2022
Court No.32
Item No. 02
Avijit Mitra

C.R.M. No.8809 of 2021

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

And

**In Re : Kalu Mallick @ Kadu Bibi Mallick @ Monjia Bibi @
Monija Bibi**

.... petitioner

Mr. Sujan Chatterjee

...for the petitioner

Mr. Satarup Purakayastha

...for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Purbasthali Police Station Case No. 223 of 2018 dated 03.07.2018 under sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that no contraband substance above commercial quantity was recovered from the possession of the petitioner. Her name has transpired on the basis of the statement of the co-accused before the police officer which is inadmissible in evidence. Upon completion of investigation chargesheet has been submitted and the petitioner has already suffered long incarceration. The petitioner is a lady and there is no possibility that she would flee from justice or delay the trial by abscondence. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition.

Mr. Purakayastha, the learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner fled from the spot from where contraband substance above commercial quantity was recovered. She has direct nexus with the alleged offence and as such, she is not entitled to the relief as prayed for more so when, trial is in progress. Pursuant to our earlier direction he has filed a report before us wherefrom it appears that the petitioner has no criminal antecedent. Let the report, as produced, be kept on record.

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

One co-accused person, namely, Subrata Das whose name features in the FIR along with that of the petitioner, has already been enlarged on bail by a Coordinate Bench of this Court. Upon assessing the role attributed to the petitioner and taking into consideration the fact that there had been no recovery of contraband substance above commercial quantity from her possession, the statutory restrictions, in our opinion, are not attracted. The petitioner has also suffered long incarceration for more than 3 years. In the said conspectus further detention is not warranted

Accordingly, we allow this application and direct that the petitioner, namely, **Kalu Mallick @ Kadu Bibi Mallick @ Monjia Bibi @ Monija Bibi**, 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 Judge, 3rd Special Court, Purba Bardhaman.

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 her bail without any further reference to this Court.

Accordingly, the application for bail, being CRM No. 8809 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)