

06.01.2022
tkm/ct 29
sl no. 48

C.R.M. 9037 of 2021

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jibantala P.S case no.470/2020 under section 21(c) of the NDPS Act
And

In Re : Mamata Sk petitioner

Ms. Sulogna Chowdhury
Mr. C Biswas
Mr. I Chakraborty

..... for the petitioner

Mr. S Bapuli
Mr. Bibaswan Bhattacharya

..... for the State

Petitioner is in custody for 448 days. It is submitted on behalf of the petitioner that she is a heart patient. It is further submitted that there is no compliance of section 52A of the NDPS Act and the evidence of PW 1 shows irregularity in marking of samples drawn from the contraband. hence, she may be released on bail.

Learned lawyer for the State opposes the prayer for bail and submits that narcotic substance i.e. 2.5 ltrs of codeine phosphate was recovered from the petitioner.

We have considered the materials on record. Statements of witnesses prima facie disclose recovery of the narcotic substance above commercial quantity from the petitioner. Impact of the alleged breach of section 52A of the NDPS Act and irregularities in sampling can be best assessed in the light of other evidence on record during trial. However, in view of the materials on record including contemporaneous documents e.g seizure list showing

recovery of narcotic above commercial quantity from the possession of the petitioner and in view of the statutory restriction under sections 37 of the NDPS, we are not inclined to grant bail to her.

Accordingly, the prayer for bail is rejected.

Trial court is directed to conclude the trial at an early date preferably within one year from the next date fixed before it for recording of evidence without granting unnecessary adjournment to either of the parties.

In view of the submission with regard to health condition of the petitioner, we observe it shall be open to the trial court to pass appropriate directions for extending medical attention to her, as and when necessary.

(Bibhas Ranjan De, J.)

(Joymalya Bagchi, J.)