

06.09.2022

Item No.05

Ct.No.1

K.B/b.r.

Allowed

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Appellate Jurisdiction

C.R.M.(NDPS) 267 of 2022

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Malbazar P.S. Case No. 58 of 2019 dated 27.02.2019 under Sections 18(a)/27(a) of Drugs and Cosmetic Act, 1940 read with Sections 21/22 of the NDPS Act,1985 corresponding to NDPS Case No. 08/2019.

And

In the matter of : **Supradipta Ghosh @Titun @ Litan**

... Petitioner.

Mr. Jaydeep Kanta Bhowmik

... for the petitioner

Mr. Aditi Sankar Chakraborty

LD. APP.

Mr. Biswarup Roy

... For the State.

This is an application for grant of bail in connection with Malbazar P.S. Case No. 58 of 2019 dated 27.02.2019 under Sections 18(a)/27(a) of Drugs and Cosmetic Act, 1940 read with Sections 21/22 of the NDPS Act,1985 corresponding to NDPS Case No. 08/2019 pending before the Court Learned Additional Sessions Judge, 1st Court(NDPS), Jalpaiguri.

On 27th February, 2019, the police of Malbazar has seized the contraband drugs from the shop, namely, Remo Mobile from the possession of the accused, namely, Pankaj Gowala. After the seizure the police has initiated FIR and investigation

was carried out. During the investigation the petitioner was arrested on the ground that the said mobile shop is registered in the name of the petitioner and the petitioner is running the said business in the said shop.

The investigation has been completed and submitted charge sheet. It is found from the record the accused from whom the said contraband and other articles were seized was granted bail by the learned Court below on 10th April, 2019. The said order of bail was never challenged by the prosecution.

The learned Counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case and the petitioner is in no way connected with the alleged offence. The petitioner is the registered owner of the shop but nothing has been seized from the possession of the petitioner.

The learned Counsel for the petitioner submits that the petitioner is the permanent resident of West Bengal and is running the business and there is no chance of absconding and will appear before the learned trial court on each and every date of hearing.

Learned Counsel for the State submits that the said contraband was seized by the police from the shop belonging to the petitioner which has been established during the investigation and the Investigating Officer has obtained certificate from the Municipal Authority to prove that the said shop was allotted to the petitioner and the petitioner is running his business in the said shop.

Learned Counsel for the State further submits that if the petitioner is released on bail there is every chance of hampering and tampering with the evidence and the prosecution will suffer badly.

Considered the rival submissions of the respective parties.

From the record it reveals that the articles have been seized from the possession of one Pankaj Gowala and he has been released on bail. There is no allegation by the prosecution that the said accused Pankj Gowala has misused the condition of bail. The petitioner has been arrested only on the ground that the petitioner is the registered owner of the said shop. Admittedly, there is no evidence on record, prima facie, to establish that anything was seized from the possession of the petitioner.

In view of the above, this Court finds that as the investigation has been completed and charge sheet has been submitted and the petitioner is permanent resident of the State of West Bengal and there is no chance of absconding.

The petitioner may find bail upon furnishing a bond of Rs.40,000/- (Rupees Forty thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, 1st Court (under the Narcotic and Psychotropic Substance Act, 1985), Jalpaiguri and on further condition that the petitioner shall not interfere with the evidence of the prosecution and shall appear

before the Learned trial Court on each and every date of hearing.

The petitioner shall not leave the jurisdiction of Malbazar Police Station without the leave of the learned trial Court.

The application for bail, being CRM (NDPS) 267 of 2022, is, thus, allowed.

All parties shall act on the server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)