

CRM 2848 of 2019
with
I.A. No. CRAN 1 of 2020 (Old No.: CRAN 3055 of 2020)

In the matter of: **Niloy Ghosh**

... petitioner

Mr. Sandip Kumar Bhattacharya
Mr. D. D. Banerjee

..... for the petitioner

Mr. Sagar Saha

..... For the N.C.B.

Learned counsel for the petitioner submitted that during the pendency of the trial, one Kamlesh Baste alias Kamlesh Panditra Baste has been released on bail on 09.01.2023 in CRM (NDPS) 1458/2022.

It is submitted that the evidence of the parties has been closed. The prosecution has not examined the witnesses in whose presence the alleged seizure had taken place. Two witnesses mentioned in the Panchnama at the time of seizure have also not been produced by the prosecution. It is thus submitted that a prima facie strong case has been made out by the petitioner for release of the petitioner on bail. Moreover, PW 5 has failed to identify the petitioner who led the investigation. Learned counsel for the petitioner submits that these factors would strongly suggest the innocence of the petitioner and the prayer for bail may be considered.

In the order granting bail in favour of Kamlesh (Supra), the Division Bench found that the narcotics recovered from the possession of Kamlesh was not of commercial quantity and a vital witness who was examined to prove the involvement of the petitioner

in the conspiracy and financing of inter trafficking of narcotics did not support the case of the prosecution. These two factors had weighed with the Division Bench in granting bail.

In the instant case, the prosecution alleged that the narcotic substance was recovered from the petitioner and is of commercial quantity. It also appears that the Learned Trial Court has fixed 30.01.2023 for recording statement under Section 313(Criminal Procedure Code).

Under such circumstances, we do not wish to grant bail as we believe that after recording of the statement under Section 313, the Learned Trial Court would dispose of the trial within a reasonable time.

On such consideration, we dispose of this application by conforming the existing arrangement of the petitioner being permitted to meet his mother twice in a week till the pronouncement of the judgment on the same terms and conditions as we have indicated earlier.

We also direct the learned Sessions Judge, 6th Court, Barasat, North 24 Parganas to dispose of the case within a period of three months from 30.01.2023. We make it clear that the Learned Trial Court is not to grant any adjournment to either of the parties unless there are unavoidable circumstances. In the event, if the matter is not disposed of within the aforesaid time period and the petitioner is not responsible for the delay, the petitioner may renew its prayer for bail.

The instant application stands disposed of. Consequently, the connected application also stands disposed of.

Supplementary affidavit filed is taken on record. The report

filed by the NCB be also kept with the record.

(Ravi Krishan Kapur, J.)

(Soumen Sen, J.)