

19.06.2023

Sl. 27

Court No. 29

sdas
(Partly
Allowed)

C.R.M. (NDPS) 1160 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Raiganj Police Station Case No. 992 of 2021 dated 01.11.2021 under Sections 20(b)(ii)(c) of the NDPS Act.

And

In the matter of: **Anupam Biswas & Anr.**

....petitioners.

Mr. Moyukh Mukherjee
Mr. Abhijit Singh
Mr. Koustav Mukherjee
Mr. Sarthak Mondal

...for the petitioners.

Mr. Saryati Datta

...for the State

1. Heard learned Counsel for the parties.
2. Contraband was recovered from the possession of the petitioner no. 1 who is alleged to be the driver of the petitioner no. 2. The quantity of contraband was above commercial quantity. So far as the petitioner no. 2 is concerned, he is implicated in the present case on the basis of the statement of the co-accused person i.e. the driver, petitioner no. 1, except which there is no material on record to show that the petitioner no. 2 had active knowledge that his car was being used for illegal purpose by his driver, petitioner no. 1 herein.
3. Learned Counsel for the State submits that the petitioner no. 2 was arrested in another case and contraband was found from his possession while he was transporting the same in the car on the same day and on that ground the petitioner no. 2 was taken in remand of the present case.
4. Be that as it may, each case has its own sets of evidence and evidence of one case cannot be taken into consideration in another case.

5. So far as the present case is concerned there is no evidence against the petitioner no. 2 except the statement of the co-accused i.e. the driver, petitioner no. 1 herein and thus we are of the view that petitioner no. 2 shall be granted the benefit of bail and such benefit is to be denied in respect of the petitioner no. 1.
6. Regard being had to such facts and submissions, factum of permanent residence of the petitioner no. 2, nature of evidence against him and completion of investigation in the meantime, it is directed that the petitioner no. 2, Sujit Kumar Roy, shall be released on bail by the learned Special Court, NDPS Act, Raiganj, Uttar Dinajpur, in connection with Special NDPS Case No. 86 of 2021 arising out of Raiganj Police Station Case No. 992 of 2021 dated 01.11.2021, on such terms and conditions as deemed just and proper in the facts and circumstances of the case.
7. Accordingly, the prayer for bail so far as petitioner no. 2 is concerned is allowed.
8. the prayer for bail in so far as petitioner no. 1, Anupam Biswas is concerned is rejected.
9. The application being **CRM (NDPS) 1160 of 2023** is allowed in part.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

