

27.06.2023
Sl. 16
Court No.29
Suvayan
(Rejected)

C.R.M. (NDPS) 1175 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in arising out of **Ghola P. S. Case No. 729 of 2022** dated **12.12.2022** under Sections **21(c)/29** of the NDPS Act, 1985.

And

In the matter of: **Pankaj Roy**

....petitioner

Mr. Debasis Kar

...for the petitioner.

Mr. Ranabir Roy Chowdhury

Mr. Sandip Chakraborty

...for the State.

1. Heard the learned Counsel for both the parties.
2. Perused the order dated 12.06.2023 as passed in N 110 of 2022 by the learned Trial Court and the prayer of the Public Prosecutor dated 30.05.2023 as placed before the learned Trial Court.
3. Learned Counsel for the petitioner prays for statutory bail on the basis of Section 36A proviso (4) of NDPS Act, 1985 and relied on judgment of Hon'ble Bombay High Court in the case of *Nayantara Gupta Vs. The State of Maharashtra* in LD/VC/OCR No.115 of 2020 Criminal Application No. ... of 2020. D/d. 10.08.2020 and judgment of Hon'ble Kerala High Court in the case of *Ubaid.A.M. Vs. State of Kerala* in CRL.MC No. 6559 of 2022. D/d. 10.11.2022.
4. Both the aforesaid judgments runs contrary to the full Bench judgment of this Court. In the case of Ramesh Monju Bishnoy Vs. State of West Bengal & Ors. in CRM 479 of 2021 dated 17.01.2023. About one month before the statutory bail was sought for permission of extension have already been granted in the present case. Taking into consideration the

provisions contained in Section 36A proviso (4) of the said Act, the progress of investigation does not mean that a detailed report running to 100 pages and/odd should be placed before the Court regarding the progress of investigation. The progress of investigation should be presented before the Court in a nut shell about which the Court should be satisfied. In the present case the petitioner has given false identity. The investigation was delayed and prayer had earlier been made to add Section 419 IPC in addition to existing section under which investigation was initiated. Proper leave was granted by the competent Court to add Section 419 of IPC and for that custodial interrogation of the petitioner in jail was also done. Finding non cooperation on the part of the petitioner the Investigation Agency had to make the investigation at best to fix the identity of the petitioner.

5. All these facts, in our view are indicative of progress in the investigation and rightly extension was allowed by the learned Trial Court negativeing the right of the petitioner for statutory bail.
6. In view of such facts and submissions, we are not inclined to exercise our discretion in favour of the petitioner under Section 439 Cr.P.C at this stage.
7. Accordingly, the prayer for bail of the petitioner is rejected.
6. CRM (NDPS) 1175 of 2023 is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)