

18 01.11.2023
rkd/ Ct. No.08
cp

C.R.M. (NDPS) No. 1789 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kulpi** P.S. Case No. **151 of 2021** dated **18/05/2021** under Sections **20(b)(ii)(c)/29** of the NDPS Act.

And

In the matter of: - Haralal Mondal

....petitioner.

Mr. Joy Chakraborty,
Mr. Sandip Dinda

...for the petitioner.

Mr. Anwar Hossain
Ms. Debjani Sahu

...for the State.

1. Learned counsel for the petitioner contends that the petitioner is already in custody for more than two years. Although the allegation is that about 44 kgs. of Ganja was recovered, the basis of incriminating the petitioner is the purported ownership of the vehicle carrying the narcotic substance. The petitioner disowns the vehicle at the relevant point of time when the same was seized.
2. Learned counsel for the petitioner places reliance on several annexures to the present application, particularly Annexure P-3 at page 15, which indicates that the vehicle was registered in the name of a different person than the petitioner. That apart, it is argued that the petitioner has no nexus with the alleged offence.

3. Learned counsel for the State squarely opposes the prayer for bail. It is argued that the quantity of the contraband article was huge, much above the commercial quantity. The present offence, it is alleged, pertains to inter-district transfer of contraband narcotics which has to be dealt with in a strong manner.
4. That apart, learned counsel for the State relies on the statement of the co-accused persons, who are the 'driver' and the 'khalasi' of the vehicle, who stated that the petitioner is the owner of the vehicle.
5. We find from the records that the petitioner has been in custody already for two years five months and eleven days and the trial is in progress. The petitioner has been able to cast some doubt on the ownership of the petitioner of the offending vehicle at the relevant point of time, i.e, on May 20, 2021, in which respect the only plinth of the prosecution case is apparently the statement of the co-accused driver of the vehicle and the helper. In any event, we do not find any further necessity of custodial trial of the petitioner.
6. Accordingly, CRM (NDPS) No. 1789 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore. The petitioner shall not leave the territorial jurisdiction of the

trial court during the entire period of trial and shall attend the trial on each and every date.

7. The petitioner, further, shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)

