

29.11.2023.
07.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1882 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.15 of 2023 arising out of Hogolberia P.S. Case No.39 of 2023 dated 23.02.2023 under Sections 20/21 of the NDPS Act.

In the matter of : **Suman Sarder @ Sardar.**

.... Petitioner.

Mr. Debarshi Brahma.

...for the Petitioner.

Mr. Rudradipta Nandy, Id. A.P.P.,
Mrs. Sonali Das.

...for the State.

1. Petitioner submits alleged seizure from his possession was to the tune of 4 kgs. of ganja. Although it is contended on his leading statement another consignment of narcotics i.e. 53 bottles of phensedyl syrup was recovered, there is no legally admissible material to support such allegation. He prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He submits BSF personnel had apprehended a group of smugglers. Petitioner was one of them and 4 kgs. of ganja was found in his possession. On interrogation, he stated a gunny bag containing phensedyl syrup and ganja had been thrown across the border. Thereafter, 53 bottles of phensedyl syrup were recovered.

3. We have considered the materials on record. Statements of BSF personnel support the prosecution case of recovery of 4

kgs. of ganja from the petitioner. But no statement of the petitioner recorded by BSF personnel leading to recovery of 53 bottles of phensedyl syrup across the border is placed before us. Even the subsequent recovery was not inventorised by BSF personnel. Seizure list showing recovery of narcotics was prepared at the police station.

4. In view of the aforesaid facts, we are of the opinion legally admissible evidence with regard to recovery of 53 bottles of phensedyl syrup on the disclosure statement of the petitioner is not supported by legally admissible evidence. Quantity of ganja recovered from his possession is below commercial quantity.

5. Under such circumstances, petitioner has been able to rebut the statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail subject to strict conditions.

6. Accordingly, the petitioner viz., **Suman Sarder @ Sardar** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act, Nadia at Krishnagar subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition petitioner while on bail shall meet the Officer-in-charge, Hogolberia Police Station once in a week until further orders.

7. In the event the petitioner fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)