

04.08.2023
tkm/ct 28
sl no.50

C.R.M. 11230 of 2020

In Re : An application under section 439(2) of the Code of Criminal Procedure

And

In Re : State of West Bengal

..... petitioner

Mr. Sabir Ahmed

..... for the petitioner/State

Mr. S S Imam

Md. Khairul

..... for OP

Inadvertent typographical error had crept in the order dated 21.7.2023.

In the 2nd line of the order the word “ailing mother” be read as “ailing wife”. Remainder of the paragraph in parenthesis be deleted.

Other portions of the order shall remain the same.

Department is directed to incorporate necessary correction in the said order.

Order dated 3rd October 2020 passed by the learned Judge, Bench I (NDPS Act), City Sessions Court, Calcutta granting bail to opposite party in a narcotic case involving commercial quantity of narcotics has been assailed by the State.

Mr. Ahmed for the State submits bail was granted to the petitioner on the ground that his wife was ailing.

Report is placed on record. From the report it appears that wife of the petitioner is not suffering from any serious ailments. It is also submitted the impugned order suffers from patent illegality as restrictions under section 37 of the NDPS Act were not considered.

Mr. Imam for the respondent-accused submits his client has not violated the conditions of bail.

As the grant of bail was primarily on humanitarian ground which no longer exists, we direct the respondent-accused to surrender within a fortnight from date before the trial court and pray for regular bail on merits.

We have not expressed any opinion with regard to merits of the case.

With the above directions CRM 11230 of 2020 is disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)