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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 451 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.12.2022 in connection with Bhaktinagar Police Station Case No. 1187 of 2021 dated 11.09 .2021 under Sections 21(b)/22(b)/29 of NDPS Act.

In the matter of : Gourav Biswas @ Gourab Biswas and another.
... Petitioners.

Mr. Jaydeep Kanta Bhowmik,
Mr. Sayantan Bhowmik

...for the Petitioners.

Mr. Kallol Acharjee,
Mr. Arjun Chowdhury

.....for the State.

The premise of the present petition for bail is that although charges under the NDPS Act were levelled against the petitioners, despite the respondent-authorities having sought time to file a supplementary charge sheet, they have failed to file the same till date as well as there being no report till date to incriminate the petitioners, without which the petitioners have been kept behind the bars since long.

It is contended that although the allegation was that the contraband materials captured from the petitioners were above the commercial quantity, in the absence of any report in that regard, the petitioners ought not to be kept further behind the bars.

Such contention is controverted by learned counsel for the State, who also hands over a photocopy of a server copy of an order dated April 11, 2022 passed in CRM(NDPS) 33 of 2022, where a coordinate Bench had refused the same prayer for bail of the petitioners and contends that such fact has been suppressed in the present petition.

Upon going through the materials on record and the coordinate Bench order dated April 11, 2022, it is patently clear that the coordinate Bench had specifically directed that since the petitioners were in custody for five months then, the concerned Investigating Agency was to complete the investigation and submit charge sheet within four months from that date. However, even after long lapse of the said period of four months, no supplementary charge sheet and/or report has been produced by the authorities as yet.

As such, we do not see any justification in keeping the petitioners behind the bars for an indefinite period.

Since the presumption under Section 37 of the NDPS Act does not arise in the present case at all in the absence of any supplementary charge sheet and/or report, CRM (DB) 451 of 2022 is allowed.

Accordingly, the petitioners, namely, Gourav Biswas @ Gourab Biswas and Manab @ Manav Kanjilal, shall be released on bail upon furnishing a bond of Rs.10,000

(Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Judge, Special Court, (under NDPS Act), First Court at Jalpaiguri subject to the condition that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever. The sureties may be common for both the petitioners.

The application, being CRM (NDPS) 451 of 2022, is, thus, disposed of.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)