

25.01.2024

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rejected

C.R.M.(NDPS) No. 167 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Englishbazar Police Station Case No. 765 of 2021 dated 06.07.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re : Sribas Halder petitioner

Mr. Joy Chakraborty

....for the petitioner

Mr. Saryati Datta

... for the State

1. Learned Counsel for the petitioner submits he is in custody for two years and five months. It is also submitted he has been falsely implicated in the case. No narcotics was recovered from his possession. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner is a conspirator and had telephonic communication with co-accused from whom narcotics above commercial quantity was recovered. Delay in the matter is at the behest of another co-accused who has prayed for discharge.

3. We have considered the materials on record. 201.48 kgs. of Ganja was recovered from a vehicle. One Sabir Mondal and Babun Mondal were present in the vehicle. CDRs collected in the course of investigation as well as phone recordings between petitioner and Sabir Mondal from whom narcotics was

recovered were sent for forensic examination. Forensic report shows the voice sample of the petitioner matches the phone recording of the accused. He does not stand on the same footing with co-accused, Chiranjit Sikdar whose voice sample did not match with the phone recordings. In view of the prima facie materials disclosing complicity of the petitioner in the conspiracy to transport a large volume of narcotics and in view of statutory restrictions under Section 37 of the NDPS Act we are not inclined to grant bail to the petitioner on merits.

4. On the score of delay we note that the matter has been adjourned at the behest of the defence on a number of occasions and presently consideration of charge has been adjourned due to a prayer for discharge made by the co-accused. Under such circumstances we are of the opinion prosecution is not responsible for the delay but the same has been engineered at the behest of the defence. Hence, we are not inclined to grant bail to the petitioner on the score of delay also.

5. Application for bail is, thus, rejected.

6. Trial court is directed to consider issue of framing of charge as well as prayer for discharge of the co-accused at the earliest preferably within two months from the next date fixed before the said court and thereafter proceed to the next stage of proceeding and conclude the same as expeditiously as possible.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)