

4.
19-08-2024
(ct. no.28)
debajyoti
(rejected)

CRM (NDPS) 368 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Howrah G.R. Police Station Case No.98 of 2023 dated 30-08-2023 T.R. No.30/2023 under Sections 21(b)/29 of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Arshi Siddiqi @ Arshi Sideiqui
.... Petitioner.

Mr. Pawan Kumar Gupta,
Ms. Sofia Nesar,
Mr. Santanu Sett

... For the Petitioner.

Mr. Jaydeep Biswas

... For the State.

Dictated by Arijit Banerjee, J.

By an order dated March 07, 2024, the petitioner was granted interim bail only for the reason that she was found to be 28 weeks’ pregnant.

From time to time, such order of interim bail was extended on the submission being made that the petitioner was suffering from post-delivery traumas.

On July 16, 2024, we directed the concerned Investigating Officer to approach the relevant doctor/Super-in-Charge of Chittaranjan Seva Kendra and SSKM Hospital, Calcutta to ascertain the present health status of the petitioner and to file a report before us.

Today, a report along with supporting documents has been filed by the Investigating Officer. Let the same be kept with the records.

The petitioner says that 86 grams of Cocaine, i.e., below commercial quantity, was allegedly seized from her.

The State says, on the basis of the FSL report, that 86 grams of Mephedrone, which is much above commercial quantity, was recovered from the petitioner.

Mr. Gupta, learned advocate for the petitioner, relied on the observations of the Hon'ble Supreme Court in the case of **Manoranjan Rout Vs. State of Odisha [Criminal Appeal No.3633 of 2023]** arising out of **S.L.P. (Crl.) No.12205 of 2023]** to the following effect:

“ When a Court concludes that the accused is entitled to be enlarged on bail pending trial, granting bail only for a limited duration is illegal. Such orders violate the right to liberty under Article 21 of the Constitution of India. Moreover, it puts an additional burden on the litigant as he is forced to file a fresh bail application for an extension of the bail granted earlier. ”

In our considered opinion, the aforesaid decision does not advance the petitioner's case to any extent. In the present case, there was no finding from this Court that the petitioner is entitled to bail. It was purely on humanitarian/medical grounds that she had been granted interim bail.

On an overall consideration of the facts and circumstances of the case, we do not think that it is necessary to extend the interim order of bail any further. Even if the petitioner is suffering from any disease, the same can well be treated in hospitals attached to Correctional Homes. We make it clear that the Superintendent of the Correctional Home where the petitioner will be lodged, will take all necessary steps so that the petitioner receives requisite medical attention.

Commercial quantity of contraband article was allegedly recovered from the petitioner. Hence, Section 37 of the NDPS Act stares at our face. The prayer of the petitioner for bail is, therefore, rejected.

The application for bail being CRM (NDPS) 368 of 2024 is, thus, **dismissed**.

Since the order of interim bail has expired by efflux of time, the petitioner shall surrender before the learned trial Court within ten days.

Parties to communicate this order to the learned trial Court.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)