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16-07-2024
(ct. no.28)
S. De
(Rejected)

CRM (NDPS) 1054 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure.

- A n d -

In the matter of : Shri Dharam Kumar Chakma & Ors.

.... Petitioners.

Mr. C.W. Mantaw,

... For the Petitioners.

Mr. Rudradipta Nandy, Ld. APP

Mr. Sujoy Sarkar,

... For the State.

The petitioners say that there was no recovery of contraband items from them. They have been implicated on the basis of the statement made by the co-accused persons. Further, they say that their fundamental right under Article 22(1) and (2) of the Constitution of India has been infringed. The arrest memo does not mention the grounds of arrest. They were also not produced before the Magistrate within 24 hours of their arrest. Hence, they must be granted bail. They rely on a decision of the Hon'ble Supreme Court in the case of ***Prabir Purkayastha Vs. State (NCT of Delhi)*** reported in ***2024 0 Supreme (SC) 463***.

Learned advocate for the State, while opposing the prayer for bail, draws to our attention the material in the case diary. We see that there were several phone calls from these petitioners to the prime accused being one Raju Mondal prior to the arrest of Raju Mondal. We also see that there are prima facie material showing cash transactions between Raju Mondal and these petitioners.

Hence, prima facie complicity of these petitioners in the alleged offence cannot be ruled out. Further, investigation is in

progress. At this stage, we are not inclined to entertain the prayer for bail of the petitioners also keeping in mind the restriction in Section 37 of the N.D.P.S. Act.

As regards the contention of the petitioners regarding alleged infringement of their fundamental right, we do not see any merit in such contention. The learned Magistrate has recorded that the petitioners were produced before him within 24 hours of their arrest. The arrest memo clearly indicates the Sections of the N.D.P.S. Act under which the petitioners have been booked. This would indicate the grounds why the petitioners were arrested. The arrest memo duly bears the signatures of the petitioners as well as their local relations. The petitioners should not be permitted to say now that they did not know why they were arrested.

We have considered the decision of the Hon'ble Supreme Court. In our considered view, the same does not come to the rescue of the petitioners in the present case.

CRM (NDPS) 1054 of 2024 is dismissed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)