

19.08.2020
SL No.13
Saswata
& b. das

CRM 5695 of 2020
with
CRAN 4072 of 2020

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **New Jalpaiguri** P.S. Case No. **796/2019** dated **02.09.2019** under Sections **20(b)(ii)(C)** of the NDPS Act

And

In the matter of: **Sonali Saha & anr.**

....Petitioners.

Mr. Soumya Nag

...for the

Petitioners.

Ms. A.S.Chakraborty, APP

...for the State.

Petitioner undertakes to affirm and stamp the application / petition as per Rules within a month of resumption of normal functioning of Court. Subject to such undertaking, the application is taken up for hearing through video conference.

It is submitted by the petitioner that he is entitled to statutory bail as the application for extension of period of investigation in terms of the proviso to Section 36A (4) of the NDPS Act had not been disposed of.

Admittedly, the application for extension of time to conclude investigation had been filed before the expiry of the statutory period. The maxim "*actus curiae neminem gravabit*"

i.e., act of court shall not prejudice no men applied with full force to the facts of this case.

The prosecution had, in fact, taken necessary steps to seek extension of the period of statutory investigation prior to expiry of such period. Failure on the part of the Court to pass appropriate order thereon cannot justify release on default bail. That apart, there is ample material to connect the petitioners with dealing in narcotic substance above commercial quantity.

In view of the aforesaid facts and circumstances of the case and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

The application being CRM 5695 of 2020 along with CRAN 4072 of 2020 is accordingly disposed of.

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

(Kausik Chanda, J.)

(Joymalya Bagchi, J.)