

CRM No.8476 of 2021

Via video conference

31.01.22

(S.R.)

Sl.15

Ct.32

In re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Tapan** Police Station Case No.106 of 2020 dated 04/04/2020 under Sections 188/269/270 of the Indian Penal Code read with Sections 21(C)/22(C)/23(C)/27(A) of the Narcotic Drugs and Psychotropic Substances Act;

And

In re: Tushar Sarkar @ Hira

... petitioner.

Ms. Rafat Reyaz

... for the petitioner.

Mr. Sudip Ghosh

Mr. Bitasok Banerjee

...for the State.

Ms. Reyaz, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. He is languishing in custody for more than 650 days and there is also no possibility towards conclusion of the trial in the near future. She further submits that co-accused persons, similarly situated with the petitioner, had already been granted bail by a Coordinate Bench of this Court in CRM No.11206 of 2020 on 5th February, 2021. In the said conspectus, the petitioner may be enlarged on bail on any stringent condition.

Mr. Banerjee, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the seizure list and other documents in the case diary. Answering our query, he submits that there was no recovery of contraband substance from the possession of Pulak Shil and as such, the petitioner is not similarly situated with him, since there had been recovery of contraband substance above commercial quantity from his possession.

Heard the learned advocates appearing for the respective parties.

Prima facie, we find incriminating materials against the petitioner in the case diary. There had been recovery of contraband substance

above commercial quantity from the possession of the petitioner and as such, statutory restrictions are clearly attracted. In view thereof, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused at this stage.

The application for bail being CRM No.8476 of 2021 is, accordingly, dismissed.

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

(Sugato Majumdar, J.)

(Tapabrata Chakraborty, J.)