

08.12.2020.
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as
(Rejected)

C.R.M. 9968 of 2020

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.23 of 2018 arising out of NCB Crime No.23/NCB/KOL/2018 dated 18.05.2018 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Masidur Rehman @ Masidur Rahaman.
... Petitioner.

Mr. D. Roy,
Mr. Avik Ghatak,
Mr. Soumya Nag.

...for the Petitioner.

Mr. Y. J. Dastoor, Id. A.S.G.,
Mr. Phiroz Edulzi,
Mr. Rajesh Kr. Shah.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

It is submitted on behalf of the petitioner that he was not contemporaneously arrested although seizure had been effected in a public place. Arrest was effected in the BSF Office eight hours later. Memo of arrest is not signed by any independent witness.

Learned Additional Solicitor General with Mr. Phiroz Edulzi opposes the prayer for bail. He submits that the petitioner was apprehended with 700 bottles of phensedyl syrup. Upon seizure of the consignment, petitioner accompanied the Officers to the BSF Office where he was formally arrested. There is no impropriety in the investigational process in that regard.

We have considered the materials on record. Alleged seizure was effected and subsequently the petitioner was taken to the BSF Office and arrested. Impact of such exercise is to be assessed along with other incriminating articles on record.

Accordingly, we are of the opinion that in the facts of the case and particularly in view of the seizure of overwhelming form of narcotic substance of 700 bottles of phensydel syrup above commercial quantity and in the light of the statutory restrictions under Section 37 of the N. D. P. S. Act, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

However, in view of the period of detention suffered by the petitioner i.e. 936 days, we request the Special Court to immediately consider the issue of framing of charge preferably within two months from the next date fixed before it and in the event charge is framed to take the trial to its logical conclusion at an early date without granting unnecessary adjournment to either of the parties.

(Suvra Ghosh,J.)

(Joymalya Bagchi, J.)