

08.11.2021
Sl. No.43
sp
[Rejected]

C. R. M. 3107 of 2021

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.04.2021 in connection with Salar Police Station Case No.191 of 2019 dated 03.11.2019 under Sections 20(b)/29 of the NDPS Act. (NDPS Case No.203 of 2019)

And

In Re: ***Ujir Sk***

... .. Petitioner

Mr. Arnab Saha .. Advocate

... .. for the petitioner

Mr. Binay Panda, Advocate

Ms. Puspita Saha

... .. for the State

The petitioner is seeking bail in connection with a case relating to offences punishable under Sections 20(b)/29 of the NDPS Act.

Learned lawyer for the petitioner submits that he is in custody for more than two years. It is submitted that he has been falsely implicated in the instant case. There is no independent witness to the alleged seizure. It is also submitted that co-accused has been granted bail.

Learned lawyer for the State opposes the prayer for bail.

It is submitted that the co-accused, who is on bail, was not present at the site but the petitioner and other accused persons were traveling in the vehicle wherefrom the contraband, that is, 46.65 kgs. of ganja was recovered. It is further submitted in spite of efforts, disinterested witnesses refused to join the seizure.

We have considered the materials on record. Statements recorded in the course of investigation as well as seizure memo, prima facie disclose recovery of 46.65 kgs. of ganja from a vehicle which was under the control and custody of the petitioner and other accused persons. It also appears from the FIR that efforts were made to join

independent witnesses, to the search but they refused to do so. Truth or otherwise such assertion requires to be assessed in the course of trial.

Recovery was made from a vehicle and not from the person of the accused. In the light of the aforesaid fact, applicability of Section 50 of the NDPS Act also requires to be assessed during trial.

Under such circumstances and in view of the statutory restrictions under Section 37 of the NDPS Act, we are not inclined in granting bail to the petitioner.

The application for bail is thus **rejected**.

However, as the petitioner has suffered protracted detention and the matter is ready for trial, we request the Trial court to complete the trial at an early date preferably within a period of one year from the date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

(Aniruddha Roy, J.)

(Joymalya Bagchi, J.)