

22.09.2021

CRM 4436 of 2021

Court No.28
Item No.33
(Rejected)

As/Akd

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with NDPS Spl. Case No.33 of 2019 arising out of Thanerpara Police Station Case No. 39 of 2019 dated 14.03.2019 under Section 21(c) of the N. D. P. S. Act;

And

In the matter of : **Ajijul Malitha.**

...Petitioner

Mr. Angshuman Chakraborty.

...For the Petitioner

**Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.**

...For the State.

The petitioners have filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with NDPS Spl. Case No.33 of 2019 arising out of Thanerpara Police Station Case No. 39 of 2019 dated 14.03.2019 under Section 21(c) of the N. D. P. S. Act.

Learned Advocate appearing for the petitioner submits that he being the driver in connection with the aforementioned case having no complicity to the commission of the alleged offence. He further submits that the person who allegedly fled away from the spot had been enlarged on bail by this Court in C.R.M.9320 of 2020 on 12th November, 2020.

The learned Advocate appearing for the State opposes the prayer for bail. It is submitted that the contraband above the commercial quantity was recovered from the possession of the petitioner and, therefore, he is not entitled to be released on bail.

After considering the respective submissions and on perusal of the materials available on record including the seizure list, it appears that the contraband above the commercial quantity was seized from the possession of the petitioner. The case, whether the petitioner was

simply driving the car, having no knowledge of the contraband being kept therein, is a matter of trial.

Since the commercial quantity of the contraband was recovered from the vehicle driving by the petitioner, we do not think that the petitioner has been able to make out a case to take exception of the provision of Section 37 of the N. D. P. S. Act.

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

However, we request the learned Special Judge under the N. D. P. S. Act to expedite the trial.

The application for bail, being CRM 4436 of 2021 is thus **dismissed.**

(Harish Tandon, J)

(Bibek Chaudhuri, J.)