

07.12.2021
saswata
ct 28
sl no. 20

C.R.M. 5433 of 2021

In Re : An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Diamond Harbour P.S. case no. 175 dated 22.06.2019 under section 20(b)(ii)(C) of the NDPS Act
And

In Re : Ajan Sha Molla @ Azan Shah Molla
..... petitioner

Mr. Mohammad Khairul
Mr. Mohammad Irfan
..... for the petitioner

Mr. Swapan Banerjee
Mr. Suman De
..... for the State

The petitioner is in custody for 2½ years. It is submitted that the alleged seizure of narcotic substances is in violation of Section 50 of the NDPS act.

Learned lawyer for the State opposes the prayer for bail and submits 24 kgs of ganja was recovered from the motorcycle of the petitioner.

Section 50 of the NDPS Act relates to search of a person, whereas recovery has been made from a vehicle. In the aforesaid factual backdrop, whether compliance of Section 50 of the NDPS Act is required or not may be assessed in the course of trial. Moreover, statement of witnesses and contemporaneous documents, namely seizure memo show recovery of narcotic substance above commercial quantity from the motorcycle driven by the petitioner.

Hence in the light of aforesaid materials on record and statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail is rejected.

However, trial court is directed to expedite the trial.

(Joymalya Bagchi, J.)

(Bivas Pattanayak, J.)