

20.09.2021
Court No.01
Item No.16
Krishnendu
Rejected

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

C.R.M. 463 of 2021

In Re:- An application under section 439 of the Code of Criminal Procedure filed in connection with Bhaktinagar P.S. Case No. 433 of 2020 dated 31.05.2020 under section 21(C) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Case No. 31 of 2020).

And

In Re: **Pappu Ghosh**

- Petitioner

Mr. Joydeep Kanta Bhowmik

For the Petitioner

Mr. Aditi Shankar Chakraborty, Id. A.P.P.

Mr. Sourav Ganguly

For the State

Mr. Bhowmik, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated in this case. From the contents of the F.I.R., it would be explicit that contraband substance of intermediate quantity was recovered from the possession of the petitioner and as such the rigors of section 37 of the N.D.P.S. Act are not attracted. The petitioner has already suffered incarceration for a period of more than one and half years and in the said conspectus, he may be enlarged on bail on any stringent condition.

Mr. Ganguly, learned advocate appearing for the State opposes the petitioner's prayer and submits that there was a single seizure list and it would be evident from the contents of the same that contraband substance was recovered from the petitioner and the person, who was driving the vehicle. The entire seizure of contraband substance was above commercial quantity.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

It appears that contraband substance above commercial quantity was recovered from the possession of the petitioner and the driver and as such there is constructive possession in commission of the offence. In view thereof, the rigors of section 37 of the N.D.P.S. Act are attracted. Accordingly, the prayer for bail of the petitioner is refused at this stage.

The application for bail, being C.R.M. 463 of 2021, is, thus, dismissed .

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

(Abhijit Gangopadhyay, J.)

(Tapabrata Chakraborty, J.)