

29.11.2021

Item No.25

Ct.No.1

dc./gsd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. 1060 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Mathabanga P.S. Case No. 200 of 2017 dated 11.4.2017 under Section 21(c) of the NDPS Act.

And

In the matter of : **Dharmendra Shaw**

... Petitioner.

Ms. Jeenia Rudra

... for the petitioner

Mr. Kollal Acharjee
Mr. Sourav Ganguly

... For the State.

Learned Advocate for the petitioner submits that the petitioner is allegedly the owner of the vehicle from where the recovery of the contraband has been effected.

Learned Advocate further submits that the petitioner is in custody for more than 260 days and the other persons from whom the recovery has been effected has already been granted bail.

Learned Advocate for the State opposes the prayer for bail and submits that the bail in respect of co-accused was

granted on a misconception of law that the same is of intermediate quantity and the said quantity was determined after assessing the percentage. The facts of the case reveals that 4080 bottles of phensedyl were recovered (each bottle containing 100 ml). The learned advocate for the State further submits that they have been taken recourse to the provisions of law in respect of the persons who have been granted bail.

On perusal of the case diary and the materials relied upon by the Learned Advocate for the petitioner that there was an agreement, we are of the view that the same relates to question of facts and the present case is of commercial quantity. Accordingly, the provisions of Section 37 of the NDPS Act are attracted and we are not entitled to release the petitioner on bail. As such, petitioner's prayer for bail is **rejected**.

With the aforesaid observations, CRM 1060 of 2021 is dismissed.

All parties shall act on the server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)