

08.02.2022

Sl. 37

Court No.29

sourav

(Rejected)

C.R.M. (NDPS) 171 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **03.02.2022** in connection with **Itahar** P.S. Case No. **487 of 2021** dated **08.08.2021** under Sections **22(b)** of the Narcotic Drugs and Psychotropic Substances Act, 1985 in connection with Spl NDPS Case No. **60 of 2021**.

And

In the matter of: **Md. Mohosim Alam @ Md. Mosim & Ors.**

....petitioners.

Mr. Ayan Basu

Mr. Amit Roy

Mr. Sumit Routh

Mr. Soupal Chatterjee

...for the Petitioners.

Mr. Saibal Bapuli

Mr. Bibaswan Bhattacharya

...for the State.

Petitioners renew the prayer for bail.

Learned advocate appearing for the petitioners submits that two police cases were initiated within a span of half an hour on the same date. He draws the attention of the Court to the time of the seizure list in CRM (NDPS) 171 of 2022 and submits that the G.D. Entry No. is 330 dated August 8, 2021 while the seizure list in the other police case which is the subject matter of CRM (NDPS) 172 of 2022 is 320 dated August 8, 2021. The seizure list of G.D. No. 330 took place between 9.15 P.M. to 9.45 P.M. while the other seizure list which is numbered 320 took place subsequently. He submits that no independent witnesses were present at the time of the alleged seizure. There are no batch numbers in the seizure list with regard to the alleged narcotic seized. This gives justifiable doubts as to the veracity of the claim of seizure. According to him, the petitioners were falsely implicated.

Learned advocate appearing for the State draws the attention of the Court to the contents in the case diary and to the earlier

order of rejection.

This is the second application for bail by the petitioners. The earlier application being CRM 7135 of 2021 was rejected on November 9, 2021 by holding that the petitioners were involved in the incident.

The alleged discrepancy which the petitioners seek to highlight in the present case, need not be decided at this stage. Absence of independent witnesses at the time of seizure per se does not render the seizure bad in law. The contents of the materials seized can be established through the report of the forensic laboratory. The petitioners did not produce any materials to establish any change in circumstances subsequent to the earlier order of rejection dated November 9, 2021. There is no reason to arrive at a finding with regard to the involvement of the petitioners other than those returned by the earlier order of rejection dated November 9, 2021.

Consequently, we are of the view that the petitioners are unable to overcome the restrictions under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Consequently, we are unable to grant bail to the petitioners.

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

C.R.M. (NDPS) 171 of 2022 is dismissed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

