

07.03.2022
Court No.32
Item No. 12
Avijit Mitra

C.R.M. (NDPS) No.228 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Israil Sk

Petitioner

Mr. Rabiul Islam,
Ms. Pramita Banerjee,
Mr. S.A. Munshi

For the Petitioner

Mr. Binay Kumar Panda,
Ms. Puspita Saha

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioners in connection with Domkal Police Station Case No. 721 of 2021 dated 28.11.2021 under sections 21(c)/29 of the N.D.P.S. Act.

Mr. Islam, learned advocate appearing for the petitioner submits that only one mobile phone was seized from the petitioner and he has been falsely implicated. He is languishing in custody for 97 days and in the said conspectus, further detention of the petitioner may not be necessary more so when, seizure was not conducted in presence of any independent witness.

Mr. Panda, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to the seizure list. He submits that 400 bottles of codeine mixture were recovered from the joint possession of the petitioner and five other accused persons, who were travelling in a car which was intercepted.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary including the seizure list wherefrom it appears that the seizure was conducted during the period from 01.15 hours to 02.30 hours.

Contraband substance above commercial quantity along with other articles were recovered from the joint possession of the petitioner and five other accused persons. As such, we are of the opinion that statutory restrictions are attracted and we are not inclined to exercise any discretion in favour of the petitioner more so when investigation is still continuing. The petitioner's prayer for bail is refused, at this stage.

Accordingly, the application for bail, being CRM (NDPS) No.228 of 2022, is dismissed.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)