

26.5.2022
Court No.5
Sl. No. 4
GB/SD

CRM (NDPS) 521 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **20.5.2022** in connection with **Hasnabad** Police Station Case No. **558** of **2021** dated **06.9.2021** under Sections **21(c)/29** of the NDPS Act.

And

In the matter of: **Biplab Mondal**

....petitioner.

Mr. Shashanka Shekhar Saha

...for the petitioner.

Mr. Binoy Panda

Mr. Pratick Bose

... for the State.

Learned counsel for the petitioner submits that, on the mere assumption that contraband substance was recovered from the petitioner, the petitioner was taken into custody. It is submitted that even the FIR mentions the seized articles as “codeine-like mixture”, which is not a contraband article under any medical jurisprudence.

Learned counsel appearing for State submits that the complaint of the SI (Sub-Inspector) of the concerned police station indicates that the substance recovered was codeine phosphate.

Although we cannot come to any conclusion whatsoever as regards the exact nature of the articles seized, in the absence of a chemical investigation report to that effect, it is evident from the circumstances under which the petitioner was arrested that there was sufficient presumption of the petitioner being in possession of the contraband article, being something akin to codeine phosphate, for the purpose of raising the presumption as stipulated in Section 37 of the NDPS Act. As such, we are unable to grant the prayer for bail made by the petitioner.

Accordingly, CRM (NDPS) 521 of 2022 is rejected.

The investigating officer shall, however, submit the chemical investigation report as expeditiously as possible, in order to expedite the trial.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)