

26.05.2022
Court No.05
Item No. 16
D.C/AM

C.R.M. (NDPS) No.533 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with N.D.P.S. Case No. 40 of 2022 arising out of Jalangi Police Station Case No.37 of 2022 dated 01.02.2022 under Sections 21(b)/29 of the N.D.P.S. Act;

And

In Re : Faruk Ahmed @ Laltu Sk.

Petitioner

Mr. Koustav Bagchi,
Mr. Sourav Mukherjee

For the Petitioner

Mr. Nuguive Ahmed,
Ms. Amita Gaur

For the State

Learned counsel for the petitioner submits that Section 37 of the N.D.P.S. Act is not applicable to the case inasmuch as, in the charge sheet, only Section 21(b)/29 of the said Act has been clubbed against the petitioner.

It is further contended that the amount of contraband articles allegedly recovered from the petitioner is much below the commercial quantity. As such, it is submitted that the presumption under Section 37 of the N.D.P.S. Act is not attracted to the petitioner at all.

However, learned counsel appearing for the State submits that, on the basis of the statement made in the F.I.R., it was a common act during which both the accused and the petitioner were found in possession of contraband articles. In such acts, it is submitted, it is not the individual efforts of different persons on individual footings, but their joint act which lead to the incriminating offences.

We find from the materials pertaining to seizure that the total amount of contraband seized from the several accused persons during the arrest was above the commercial quantity.

We cannot segregate the petitioner for the purpose of isolating him in respect of presumption under Section 37 of the N.D.P.S. Act, in view of the joint nature of crime.

As such, at this juncture prior to the trial having commenced, we are not inclined to grant bail, although the charge sheet has already been filed, keeping in view the gravity of the allegation.

Hence, CRM (NDPS) 533 of 2022 is rejected.

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

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)