

26.07.2022
cm/ct 28

C.R.M. (NDPS) No. 833 of 2022

sl. no. 6

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Special case No. 20 of 2019 arising out of **NCB Crime No. 11/NCB/KOL/2019** dated **05.07.2019** under Sections **8 (C)** read with **17/18/27A/28/29** of the N.D.P.S. Act.

Rejected

And

In Re : Birbal Kumar.

..... petitioner

Mr. Abdullah Bin Masi

..... for the petitioner

Mr. Uttam Basak

..... for the NCB

Petitioner is the driver of the vehicle and it is contended he did not have conscious possession of contraband which was recovered from the vehicle. He is in custody for more than 1000 days.

Mr. Basak, learned advocate for the NCB opposes the prayer for bail. He submits petitioner was the driver and had control and dominion over the vehicle which was used to transport narcotic substance.

We have considered the materials on record. Petitioner was the driver of the vehicle and had control and dominion over the vehicle which was used to transport narcotic substance. His prayer for bail was rejected earlier. He does not stand on the same footing with co-accused whose bail prayer was allowed as no narcotic substance had been recovered from their possession.

Keeping in mind the aforesaid incriminating materials and in the light of the statutory restrictions under Section 37 of the N.D.P.S. Act, we are not inclined to grant bail to the petitioner.

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

We, however, request the trial court to consider the issue of framing charge on the date fixed and in the event it is unable to do so positively within a month thereof to take the proceeding to its logical conclusion without granting unnecessary adjournment to either of the parties.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)