

28.07.2022.
08.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 835 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.89 of 2021 arising out of Excise Sl. No.69/21-22 dated 30.11.2021 under Sections 8(c)/20(b)(ii)(c)/29 of the N. D. P. S. Act.

In the matter of : Rajesh Kumar Mishra.

... Petitioner.

Mr. Anubhav Roy,
Mr. Sagar Kr. Mishra,
Ms. Subhangini Jaiswal.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Baishakhi Chatterjee.

...for the State.

Heard the learned Counsels appearing on behalf of the parties.

Petitioner is in custody for about 238 days. He submits he is a bus conductor and did not have knowledge that narcotic substance was kept in the sack which was seized from the bus.

Learned Advocate for the State opposes the prayer for bail and submits petitioner and four co-accuseds (who were arrested at the spot) had control and dominion over the vehicle which was used for transporting narcotic substance. Petitioner was seen the loading bags containing narcotic substance. Bail prayer of co-accuseds similarly circumstanced with the petitioner have been turned down by this Court in CRM 648 of 2022.

We have considered the materials on record. Statements of witnesses and other attending circumstances show petitioner who was the conductor of the vehicle along with the driver and others had control and dominion over the vehicle which was used for transporting narcotic substance.

In view of the aforesaid materials on record and the statutory presumption under Section 54 of the NDPS Act, we are of the opinion a prima facie case with regard to conscious possession is established against the petitioner. Bail prayer of co-accuseds have been turned down by this Court in CRM 648 of 20220.

Under such circumstances, we are not inclined to grant bail to the petitioner.

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

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)