

02.08.2022
Sl. No.8
akd
[Rejected]

C. R. M. (NDPS) 868 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.07.2022 in connection with Bhagwangola Police Station Case No. 514 of 2020 dated 30.10.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.243 of 2020)

And

In Re: ***Tapan Sk. & Anr.***

... .. Petitioners

Mr. Niladri Sekhar Ghosh
Mr. Tapodip Gupta
Mr. Sourav Mondal

... .. for the petitioners

Mr. Sudip Ghosh
Mr. Apurba Kr. Datta

... .. for the State

It is submitted on behalf of the petitioners there is discrepancy in the markings of the samples in the seizure list and those which were forwarded to the chemical examiner. It is further submitted while samples marked in the seizure list are A, A1 & A2 respectively, the samples which were sent to the chemical examiner are marked as A3 & B3 respectively.

Learned advocate appearing for the State opposes the prayer for bail and submits samples which were sent to the chemical examiner were sealed and labelled. They bore the signatures of the accuseds. In course of investigation, subsequent samples were drawn which were marked as A3 & A4 respectively. The said samples were sent for chemical examination.

We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotic substance i.e. 73 bottles of *phensedyl syrup* containing *codeine phosphate*, which is above commercial

quantity from the possession of the petitioners. In the seizure list, the samples have been marked as A, A1 & A2 respectively. It is true the forwarding challan describes the samples as A3 & B3 but we note that the said samples were subsequently drawn and forwarded for chemical examination. Report of the chemical examiner also does not disclose any tampering of the samples concerned. Prima facie we are of the opinion chain of custody of the seized articles and the items sent for chemical examination have been established. In view of the aforesaid fact and statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioners.

The application for bail is thus **rejected**.

Trial court is directed to expedite the trial and conclude the same at an early date preferably within one year from the next date fixed for recording of evidence without granting unnecessary adjournments to either of the parties.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)