

12.08.2022
cm/ct 28

C.R.M. (NDPS) No. 919 of 2022

sl. no. 11

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Lalgola P.S. Case No. 90 of 2022** dated **19.03.2022** under Sections **22 (c)/29** of the N.D.P.S. Act.

Rejected

And

In Re : Nijam Sheikh @ Md. Nijam Sk.

..... petitioner

Mr. A.A. Alamgir
Ms. Rabia Khatoon

..... for the petitioner

Mr. Saryati Datta

..... for the State

Petitioner is in custody for 146 days. It is contended that petitioner was apprehended from a field where he was lying unconscious. Hence, it cannot be said he had “conscious possession” of the narcotic substance recovered at the spot.

Learned lawyer for the State opposes the prayer for bail. He submits BSF personnel raid and found petitioner lying unconscious in a field beside a plastic sack containing 55 bottles of phensedyl syrup containing codeine phosphate. BSF personnel brought the petitioner and the contraband to the office and he was arrested.

We have considered the materials on record. Though at the time of apprehension the petitioner was unconscious, narcotic substance i.e. 55 bottles of phensedyl syrup containing codeine phosphate lying adjacent to the petitioner lead to the irresistibly inference that he had carried the contraband to the spot.

In view of 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.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)