

09.09.2022
Sl. No.6
akd
[Rejected]

C. R. M. (NDPS) 1028 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.09.2022 in connection with Kaliachak Police Station Case No. 36 of 2022 dated 10.01.2022 under Sections 21(c)/27A/29 of the NDPS Act.

And

In Re: **Md. Nasim Sk.**

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Anindya Ghosh

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Bibaswan Bhattacharya

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 230 days. It is further submitted recovery of narcotic substance from his residence is not supported by independent witnesses. There is delay in dispatch of samples.

Learned advocate appearing for the State opposes the prayer for bail and submits that from the possession of co-accused viz. Salim Mia, a large quantity of narcotic substance i.e. 300 bottles of *phensedyl syrup* in all were recovered. Pursuant to the statement of Salim Mia and other co-accuseds, recovery of 50 bottles of *phensedyl syrup* was made from the petitioner. There is no delay in dispatch of samples for chemical examination.

We have considered the materials on record. Statements of witnesses and contemporaneous documents show large volume of *phensedyl syrup* was recovered from the possession of the petitioner and co-accuseds. Impact of non-joining of independent witnesses requires to be assessed in the light of the entire materials on record

during trial. Prima facie there is no snap in the chain of custody between the seized contraband and the samples dispatched for chemical examination. Under such circumstances, we are not inclined to grant bail to the petitioner.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)