

16.09.2022
Sl. No.6
akd
[Rejected]

C. R. M. (NDPS) 1046 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 08.09.2022 in connection with Nischinda Police Station Case No. 149 of 2021 dated 22.08.2021 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.

And

In Re: ***Rama Kant Das***

... .. Petitioner

Mr. Pawan Kumar Gupta
Mr. Vijay Verma

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is the driver of the vehicle where narcotic substance above commercial quantity i.e. 109.4 kgs. of *Ganja* was recovered. It is further submitted petitioner was unaware of the narcotics carried in the vehicle by three passengers who fled from the spot. It is contended there are variations in the weight of the samples noted in the seizure list and the FSL report.

Learned advocate appearing for the State opposes the prayer for bail.

We have considered the materials on record. Petitioner is the driver of the vehicle which was used to transport narcotic substance. He was arrested from the spot. Role of the petitioner in the crime and the quantity of narcotic substance seized from the vehicle prima facie gives an impression with regard to culpable knowledge of the petitioner. That apart, he is required to discharge statutory presumption under Sections 35/54 of the NDPS Act during trial. FSL report discloses the seized contraband as narcotic substance. Alleged variation with regard to quantity does not go the root of the prosecution case and it is open to

the prosecution to explain the same during trial. In view of the aforesaid circumstances, we are of the opinion this is not a fit case to grant bail to the petitioner.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)