

22.09.2022
Sl. No.3
akd
[Rejected]

C. R. M. (NDPS) 1070 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.09.2022 in connection with Kaliachak Police Station Case No. 1398 of 2021 dated 15.12.2021 under Sections 21(c)/29 of the NDPS Act and Section 27 of the Drugs and Cosmetics Act.

And

In Re: ***Gurupada Mandal***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about ten months. It is further submitted petitioner was not present at the spot when alleged narcotic substance was recovered. It is also submitted recovery is not supported by independent witnesses.

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

We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotic substance i.e. 350 bottles of *phensedyl syrup* containing *codeine phosphate*, which is above commercial quantity from the house of the petitioner. There is no axiomatic proposition of law that the version of official witnesses ought not to be believed. Reason for non-joining of independent witnesses during search may be explained during trial.

In view of the aforesaid incriminating materials on record and statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)