

20.10.2022.
18.
Ct.No.28
as/cm
(Rejected)

C.R.M. (NDPS) 1223 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bauria P.S. Case No.176 of 2021 dated 16.10.2021 under Section 20(b) of the N. D. P. S. Act.

In the matter of : Sourav Mahapatra & Ors.

... Petitioners.

Sk. Toslim Ali.

...for the Petitioners.

Mr. Sanjoy Bardhan,
Mr. Palash Ch. Majhi.

...for the State.

Though it is not disputed with regard to the commercial quantity of NDPS Act being seized by the police authority, the learned advocate for the petitioners prays for bail on the ground that no independent witness was present at the time of seizure of contraband articles. The accused is in custody for about 370 days. Police submitted charge sheet against the petitioner under Section 20(b) of the NDPS Act. Charge has already been framed and out of 8 charge sheeted witnesses, one witness has been examined. Therefore, it is not necessary to keep the petitioners in custody during trial.

Whether seizure of contraband article is vitiated due to absence of an independent witness is to be looked into by the trial court at the time of disposal of the case. It is already recorded at the very outset that contraband article recovered from the possession of the accused is of commercial quantity.

Considering such aspect of the matter and taking into account the embargo contained in Section 37 of the NDPS Act, prayer for bail of the petitioners is rejected.

However, the learned Trial Judge is requested to expedite the trial of the case and take all steps to examine the remaining seven witnesses after Vacation.

(Bibek Chaudhuri, J.)

(Biswaroop Chowdhury, J.)