

20.10.2022.
23.
Ct.No.28
as/cm
(Rejected)

C.R.M. (NDPS) 1255 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N- 7 of 2022 arising out of Ghola P.S. Case No.54 of 2022 dated 25.01.2022 under Section 21(c) of the N. D. P. S. Act.

In the matter of : Pintu Bhowmick.

... Petitioner.

Mr. Subhajit Chowdhury.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Debjani Dasgupta.

...for the State.

Having heard the learned advocate for the petitioner and the learned Public Prosecutor-in-charge, it is ascertained that the present petitioner was arrested in connection with this case on the basis of the statement made by a co-accused. It is true that the statement made by a co-accused implicating another before the police is not admissible. However, after arrest the present petitioner made a confessional statement on the basis of which huge quantity of codeine mixture was recovered from a place at Mahendranagar Ambagan area under Ghola Police Station.

It is needless to say that in order to attract a penal provision under the NDPS Act, physical possession of contraband articles by the accused is not necessary. What is required is conscious possession. Since the contraband article was recovered from the statement leading to the recovery made

by the present petitioner, the embargo under Section 37 of the NDPS Act shall attract.

In view of such circumstances, prayer for bail of the petitioner is rejected.

It is submitted by the learned advocate for the petitioner that charge sheet has already been submitted before the learned Special Judge at Barrackpore. Therefore, the learned Special Judge is requested to frame the charge against the petitioner on the basis of the materials on record and proceed with the trial expeditiously.

(Bibek Chaudhuri, J.)

(Biswaroop Chowdhury, J.)