

14.11.2022
Sl. No.5
akd
[Rejected]

C. R. M. (NDPS) 1325 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.11.2022 in connection with Dankuni Police Station Case No.453 of 2016 dated 01.12.2016 under Sections 21(c)/25/29 of the NDPS Act and Section 468 of the Indian Penal Code. (NDPS Case No.39 of 2016)

And

In Re: ***Riajul Sk. @ Riyajul Haque***

... .. Petitioner

Mr. Kazi Safiullah

... .. for the petitioner

Mr. Binay Kumar Panda

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than five years. It is further submitted the seized contraband is medicine and not a narcotic substance.

Learned advocate appearing for the State opposes the prayer for bail and submits examination of prosecution witnesses is in progress. Prayer for bail of co-accused on the ground of delay was turned down by a coordinate Bench of this court in CRM 8132 of 2021.

We have considered the materials on record. Prayer for bail of co-accused on the ground of delay in trial was turned down by a coordinate Bench of this court in CRM 8132 of 2021. Accused had contributed to the delay. Trial is in progress. Materials on record show *phensedyl syrup* containing *codeine phosphate* above commercial quantity was recovered from the joint possession of the petitioner and co-accused. There is nothing on record to show that the accused persons were dealing with the item for medicinal purposes. In ***Mohd. Sahabuddin & Anr. vs. State of Assam***¹ the Apex Court had held

¹ (2012) 13 SCC 491

possession of *phensedyl syrup* for non-medicinal purposes would attract the provisions of the NDPS Act.

Under such circumstances and in view of the materials on record, we are not inclined to grant bail to the petitioner.

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

Trial court is directed to expedite the trial and conclude the same at an early date.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)