

16.12.2022
Sl. No.6
akd
[Rejected]

C. R. M. (NDPS) 1490 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.12.2022 in connection with English Bazar Police Station Case No.1154 of 2021 dated 08.09.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.83 of 2021)

And

In Re: ***Md. Khadimul Islam @ Khadim***

... .. Petitioner

Mr. Mrityunjoy Chatterjee
Mr. S. Paul
Mr. Debapriya Majumder
Mr. S. Biswas

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 255 days. It is further submitted petitioner was apprehended out of suspicion. Recovery allegedly made on his leading statement is false. It is not supported by independent witnesses. There is no material that the place of recovery was his residence.

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

We have considered the materials on record. On the leading statement of the petitioner, narcotic substance i.e. 300 gms. of *Heroin*, which is above commercial quantity was recovered from his residence. Impact of non-examination of independent witnesses requires to be assessed in the backdrop of the statements of official witnesses and other contemporaneous document i.e. seizure memo during trial. In view of the aforesaid incriminating materials 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.)