

01.03.2022

COURT : 01
ITEM : 04
MATTER : 439
STATUS : REJECTED
TRANSCRIBER : nandy

CIRCUIT BENCH OF CALCUTTA HIGH COURT AT JALPAIGURI

CRM (NDPS) 9 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on January 10, 2022 in connection with Maynaguri Police Station Case No. 421 of 2021 dated 23.08.2021 under Sections 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act. (NDPS Case No. 62 of 2021)

And

In the matter of: **Sudeb Sarkar & Ors.**

...Petitioners

Mr. Sudip Guha, Advocate

...for the Petitioners

Mr. Nilay Chakraborty, Advocate

Mr. Tapan Bhattacharjee, Advocate

...for the State

The petitioners are seeking bail in connection with Maynaguri Police Station Case No. 421 of 2021 dated 23.08.2021 under Sections 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act.

The petitioners submit that the name of one of the witnesses at the time of seizure does not find place in the chargesheet but the name of some other witness has been included therein and, therefore, the petitioners should be released on bail.

The State opposes the prayer for bail and submits that the person who was a witness at the time of seizure is one and the same and, therefore, his name has been disclosed in the chargesheet.

Our attention is, however, drawn to the statement of the said witness recorded under Section 161 of the Code of Criminal Procedure. The question relating to the identity of a person is

essentially a matter of trial and, therefore, we do not find that the same can be projected at this stage. Since commercial quantity of contraband was allegedly recovered from the joint possession of the petitioners, we do not find any justification for taking exception to Section 37 of the NDPS Act.

Accordingly, the prayer for bail is **rejected**.

The application being **CRM (NDPS) 9 of 2022** is **dismissed**.

However, we request the learned Judge of the Special Court under NDPS Act, to expedite the trial of the case.

(Harish Tandon, J)

(Rabindranath Samanta, J)