

**CIRCUIT BENCH OF CALCUTTA HIGH COURT  
AT JALPAIGURI**

06.05.2022

Item no.26  
Court No.01  
Avijit Mitra

**CRM (NDPS) 129 of 2022**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure;

And

**In Re : Sahidul Mia**

.... petitioner

Mr. Hillol Saha Poddar,  
Ms. Mousumi Das,  
Mr. Sayantan Bhowmik

....for the petitioner

Mr. Nilay Chakraborty,  
Mr. Tapan Bhattacharjee

..... for the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred in connection with Sitalkuchi Police Station Case No.437 of 2021 dated 17.10.2021 under Section 20(B)(ii)(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Saha Poddar, learned advocate appearing for the petitioner submits that the petitioner is similarly situated with one Dilip Barman whose prayer for bail was initially rejected by a Coordinate Bench of this Court on 7<sup>th</sup> January, 2022 but due to change in circumstances he was subsequently granted bail by an order dated 22<sup>nd</sup> April, 2022 passed by another Coordinate Bench of this Court. Let the orders, as produced, be kept on record. He accordingly submits that on the ground of parity

same relief should be granted to the petitioner, who had already suffered long incarceration since 17<sup>th</sup> October, 2021.

Mr. Chakraborty, learned advocate appearing for the State opposes the petitioner's prayer and draws our attention to several documents in the case diary including the seizure list and the memo of arrest.

He further submits that the petitioner herein was arrested on the spot on 17<sup>th</sup> October, 2021 and there had been recovery of contraband substance above commercial quantity. In view thereof, the restriction of Section 37 of the N.D.P.S. Act are clearly attracted. The petitioner does not stand on the same footing with Dilip Barman.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

From the order dated 7<sup>th</sup> January, 2021 passed in the case of Dilip Barman it appears that he was alleged to be the owner of contraband goods. However, the petitioner herein was arrested from the spot with contraband substance above commercial quantity. Upon cumulative assessment of the materials in the case diary, we do not find that the petitioner can be granted bail on the ground of parity.

Considering the fact that there had been recovery of contraband substance above commercial quantity from a truck in which the petitioner was travelling, we are of the opinion that the restrictions of Section 37 of the N.D.P.S. Act are clearly attracted.

In view thereof, we are not inclined to exercise any discretion in favour of the petitioner and his prayer for bail is refused, at this stage.

However, we direct the learned Court below to frame charges as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

The application for bail CRM (NDPS) 129 of 2022 is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Ajoy Kumar Mukherjee, J.)      (Tapabrata Chakraborty, J.)**