

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

30.08.2022
cm/ct 28

C.R.M. (NDPS) No. 261 of 2022

sl. no. 3

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Alipurduar P.S Case No. 174 of 2017** dated **31.03.2017** under Sections **20(b)(ii)(c)** of the N.D.P.S. Act.

Rejected

And

In Re : Arabinda Modak @ Arabindo Modak @ Arabindo Madok @ Arobindo Modak @ Aurobinda Modak @ Arbindo Modok @ Kalia.
..... petitioner

Mr. Kumar Shantanu

..... for the petitioner

Mr. Nilay Chakraborty
Mr. Aniruddha Biswas

..... for the State

Petitioner submits that he was not in the vehicle which was used to transport narcotic substance. He had been arrested prior to the recovery of narcotics. He is in custody for 5 years.

Learned lawyer for the State opposes the prayer for bail. He submits bail prayer of the petitioner was rejected on merits on 2nd August, 2022 in CRM(NDPS) 194 of 2022.

We have considered the materials on record including statements of the official witnesses as well as contemporaneous document namely, seizure list.

From the aforesaid materials it appears petitioner and co-accused were arrested at the time of recovery. Slight variation with regard to the time of arrest as noted in the memo of arrest would not affect the credibility of the case established prima facie from the aforesaid materials on record. That apart, his bail prayer was rejected earlier in August, 2022 and there is no change in

circumstance since then. Hence, we are not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected.

Keeping in mind the protracted period of detention suffered by the petitioner, we consider it prudent to direct the trial court to conclude the trial as expeditiously as possible preferably within six months from the next date fixed for recording evidence.

Needless to mention official witnesses must attend the trial court and if they fail to do so without any justifiable cause necessary disciplinary proceedings shall be initiated against them.

In the event the official witnesses are unable to attend the court due to official commitments, the trial court shall be at liberty to resort to video conferencing facilities to record their evidence.

Copy of this order be communicated to the court below as well as Superintendent of Police Alipurduar for due compliance.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)