

13.09.2022

Item No.14

Ct.No.1

K.B/b.r.

Rejected

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Appellate Jurisdiction

CRM (NDPS) 277 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhaktinagar P.S. Case No.1187 of 2021 dated 11.09.2021 under Sections 21(b)/22(b)/29 with added section 22(c) of the NDPS Act, 1985.

And

In the matter of: **Abhishek Kumar Gupta**

....Petitioner

Mr. Arjun Chowdhury

...for the Petitioner

Mr. Niloy Chakraborty

Ms. Namrata Das

.....for the State

This is an application for grant of bail in connection with Bhaktinagar P.S. Case No. 83 of 2021 dated 11.09.2021 under Sections 21(b)/22(b)/29 with added section 22(c) of the NDPS Act, corresponding to NDPS Case No. 83 of 2021 pending before the Learned Additional District & Sessions Judge, Special Court (NDPS) 2nd Court, Jalpaiguri.

The petitioner submits that since the arrest, the petitioner is in custody. It is further submitted that the police has not complied with the provision of Section 52(A) of the NDPS Act. It is further submitted that on an earlier occasion, the petitioner was granted interim bail and subsequently he had surrendered. It is further submitted that there is no allegation that when the petitioner was enlarged on interim bail, he has hamper or tamper with the evidence. Learned Counsel for the petitioner submits that investigation has been completed and charge sheet has been filed and no purpose would be served if the petitioner detained in custody further.

Learned Counsel for the State submits that altogether three accused persons are involved. Narcotics were seized from the joint possession of the accused persons and the narcotics was seized from the accused persons is of commercial quantity.

Learned Counsel for the State submits that police has submitted charge sheet within the statutory period and there is bar for grant of bail under Section 37 of the NDPS Act.

Considering the rival submissions of the respective parties and the materials on record, this Court finds that from the joint possessions of the accused persons including the petitioner herein, commercial quantity of narcotics was seized. On completion of the investigation a *prima facie* case has been made out against the petitioner along with the other co-accused persons and charge sheet has been filed.

This Court is of the view that as the commercial quantity of narcotics have been seized from the joint possession of the accused and as such this is not proper for this Court to grant bail to the petitioner at this stage.

In view of the above, **CRM 277 of 2022**, stands **rejected**.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Krishna Rao J.)

(Subrata Talukdar, J.)

