

**14.09.2022**

Item No.05

Ct.No.1

K.B/b.r.

**Rejected**

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

**CRM (NDPS) 279 of 2022**

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dinhata P.S. Case No.144 of 2021 dated 27.03.2021 under Sections 21(b)(ii)(c) of the NDPS Act, 1985.

And

In the matter of: **Bapi Haque and Rafikul Islam**

....Petitioners

Mr. Jagriti Mishra  
Mr. Sabir Ali  
Mr. Subham Gupta

...for the Petitioners

Mr. Aditi Shankar Chakraborty, Ld. APP.  
Mr. Niloy Chakraborty  
Mr. Saurav Ganguly

.....for the State

This is an application for grant of bail in connection with Dinhata P.S. Case No.144 of 2021 dated 27.03.2021 under Sections 21(b)(ii)(c) of the NDPS Act pending before the Learned Additional Sessions Judge, 1<sup>st</sup> Court, Cooch Behar in NDPS Case No. 42 of 2021.

The petitioners submit that since the arrest, the

petitioners are in custody. The Learned Counsel for the petitioners drawn the attention of the order No.16 dated 21<sup>st</sup> of September, 2021, wherein the learned Additional Sessions Judge, 1<sup>st</sup> Court, Cooch Behar (NDPS) has extended one month time for completion of investigation. Learned Counsel for the petitioners submit that the extension granted by the learned Court is in violation of order passed by the Hon'ble Supreme Court in the case reported in *(2019) 17 SCC 631* on the ground that the application was filed by the Investigating Officer and not by the Public Prosecutor for extension of time to complete investigation.

Learned Counsel for the petitioners submits that accused persons are languishing in custody for 535 days and out of 13 witnesses three witnesses have been examined and 10 witnesses are yet to be examined. Three witnesses who have been examined are the material witnesses and thus, there is no chance of hampering or tampering with the evidence.

*Per contra*, learned Counsel for the State submits that the learned Court of Additional Sessions Judge,

1<sup>st</sup> Court, Cooch Behar (NDPS) has rightly extended the period for further investigation and thereafter the investigation has been completed and charge sheet has been filed.

Learned Counsel for the State further submits that the trial is in progress, three witnesses have already been examined and the prosecution will take appropriate steps for examination of remaining witnesses.

Learned Counsel for the State further submits that at this stage, the petitioners are enlarged on bail, there is every chance that the petitioners will hamper and tamper with the evidence. Learned Counsel for the State further submits that this is a case wherein a commercial quantity of narcotics was seized and there is bar for grant of bail under Section 37 of the NDPS Act.

Considered the rival submissions of the respective parties, Case Diary and the materials on record, this Court finds that after the order is passed by the learned Court of Additional Sessions Judge, 1<sup>st</sup> Court Cooch Behar(NDPS), the police has completed

investigation and submitted charge sheet. Now, the case is at the stage of trial and three witnesses have examined. This Court is not inclined to grant bail to the petitioners at this stage.

In view of the above, **CRM(NDPS) 279 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.)**