

19.01.2023

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rejected

C.R.M. (NDPS) No. 77 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Andal Police Station Case No. 171 of 2022 dated 20.05.2022 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Sk. Amir Ali @ Amir Ali petitioner

Mr. Sekhar Basu, Sr Adv.

Mr. Avik Ghatak

Mr. Soham De Dhara

... for the petitioner

Mr. Ranabir Roychowdhury

Mr. Mainak Gupta

... for the State

Learned Counsel for the petitioner submits he is in custody for 244 days. It is also submitted that number of the case has been endorsed in the memorandum of arrest and the seizure memorandum though the same was registered subsequently.

We have considered the materials on record. Statements of the witnesses show recovery from the petitioner and co-accuseds. Total recovery is to the tune of 270 grams of Heroin which is above commercial quantity. A deeper scrutiny of the seizure memorandum would show that the seizure was initially on the basis of a general diary entry and the case number had been subsequently entered by a different hand. These issues require to be thrashed out in the course of the trial. However, in

the light of the prima facie materials on record regarding recovery of narcotic substance which is above commercial quantity and as the matter has considerably progressed since the earlier rejection of bail by this Court, we are not inclined to grant bail at this stage.

The application for bail is, thus, rejected.

Trial court is directed to consider the issue of framing of charge on the next date fixed and if it is unable to do so due to circumstances beyond control positively within one month thereof and take the proceeding to its logical conclusion without granting unnecessary adjournment to either of the parties.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)