

02.02.2023
Sl. No.12
akd
[Rejected]

C. R. M. (NDPS) 119 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.01.2023 in connection with Katwa Police Station Case No.441 of 2022 dated 16.07.2022 under Sections 18(b)/25/27A/28/29 of the NDPS Act.

And

In Re: ***Sajid Hasim @ Hasim @ Md. Sajid Hasim & Anr.***

... .. Petitioners

Mr. Anisur Rahaman

... .. for the petitioners

Mr. Swapan Banerjee
Mr. Suman De

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for about 200 days. It is further submitted quantity of narcotic substance recovered from the possession of the petitioners is below commercial quantity.

Learned Advocate for the State opposes the prayer for bail and submits total quantity recovered from the petitioners and co-accused is above commercial quantity. He further submits there was videography of the seizure.

We have considered the materials on record. 9.7 kgs. of *opium* was recovered from co-accused. On his leading statement, further 2.24 kgs. of *opium* was recovered from the petitioners. The manner and circumstance of the two recoveries clearly show commonality of interest in dealing with narcotics. In this backdrop, total quantity of narcotics recovered from the petitioners and co-accused is relevant to determine whether the restrictions under Section 37 of the NDPS Act would be attracted or not.

Under such circumstances and in view of the aforesaid restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioners.

The application for bail is thus **rejected**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)