

07.02.2023.
09.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 199 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No. 67 of 2022 arising out of Kaliachak P.S. Case No.466 of 2022 dated 08.05.2022 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Rafikul Sk.

... Petitioner.

Md. Wasim Akram.

...for the Petitioner.

Mr. T. D. Nandy,
Mr. Antarikhya Basu.

...for the State.

Petitioner is in custody for 276 days. He submits there is a discrepancy in the weight of the seized sample taken at the spot and that which was examined by the chemical examiner. He also submits there was no independent witness to the seizure. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits local witnesses refused to join the seizure.

We have considered the materials on record. Statements of official witnesses and seizure memorandum show recovery of narcotics above commercial quantity i.e. 510 gms. of brown sugar from the joint possession of the petitioner and co-accused. Credibility of explanation regarding absence of independent witnesses to the seizure may be thrashed out in the course of trial. Similarly, discrepancy in the sample and those examined at FSL is minimal and may be explained away during trial.

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

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

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)