

16.02.2023
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rejected

C.R.M. (NDPS) No. 283 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Bhagwangola Police Station Case No. 191 dated 27.03.2022 under Section 21(c) of the NDPS Act for violation of Section 8 of the NDPS Act.

And

In Re : Asarul Hoque @ Asha petitioner

Mr. Imtiaz Akhtar
Mr. Kiron Sk.

... for the petitioner

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta

... for the State

Learned Counsel for the petitioner submits he is in custody for 300 days. It is also submitted that he has been falsely implicated due to political affiliation. Left thumb impression (LTI) of the petitioner was obtained on the seizure list. He is a literate person. There is delay in concluding investigation. Requirements of Section 50 of the NDPS Act have not been complied with. He prays for bail.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. Recovery of narcotics was made from a nylon bag carried by the petitioner. Applicability of Section 50 of NDPS Act has to be seen in the aforesaid circumstance during trial. Statements of the witnesses and seizure memorandum show recovery of narcotics

above commercial quantity from the possession of the petitioner. He was apprehended at the place of occurrence. Affixing LTI of the petitioner instead of full signature would not prima facie erode credibility of recovery. Keeping in mind the aforesaid materials and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

The application for bail is, thus, rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)