

13.03.2023
tkm/ct 28
sl no.67

C.R.M. (NDPS) 364 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Kaliachak P.S case no. 54 of 2022 dated 13.1.2022 under sections 21(c)/27A/29 of the NDPS Act

And

In Re : Md. Nasiul Sk @ Medal @ Nasirul Sk. petitioner

Mr. Milon Mukherjee, Sr. adv.

Mr. A Patra

Mr. D Kundu

..... for the petitioner

Mr. S Bardhan

Mr. Palash Majhi

..... for the State

Petitioner is in custody for 14 months. Co-accused Babar Sk. has been granted pre-arrest bail. There is no material to show recovery was made from the house of the petitioner.

Learned lawyer for the State opposes the bail prayer.

We have considered the materials on record. Petitioner was present and had custody of the narcotics i.e. 1750 bottles of phensedyl containing codeine phosphate when recovery was made.

Under such circumstances, he does not stand on the same footing with his brother i.e. co-accused Babar Sk who has been granted pre arrest bail. Prima facie recovery of narcotics from the control and custody of the petitioner has been established.

Under such circumstance and in view of the statutory restriction under section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

Accordingly, prayer for bail is rejected.

All issues are kept open in the course of trial.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)