

31.03.2023.  
15.  
Ct.No.28  
as  
(Rejected)

**C.R.M. (NDPS) 610 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.32 of 2021 arising out of Malda P.S. Case No.159 of 2021 dated 31.03.2021 under Section 21(c)/29 of the NDPS Act.

In the matter of : Biswajit Ghosh.

... Petitioner.

Mr. Kalidas Saha.

...for the Petitioner.

Mr. Sudip Ghosh,  
Mr. Apurba Kr. Datta.

...for the State.

Petitioner submits he is a fish dealer. He had boarded a vehicle to return from Siliguri. Narcotics was recovered from the vehicle. He did not have conscious possession. He prays for bail.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record. Vehicle was not a public carrier. Four persons including the petitioner were in the vehicle. Recovery of narcotics above commercial quantity was from the said vehicle. Constructive possession of narcotics has been established. Petitioner is required to rebut statutory presumption during trial.

Under such circumstances and in view of 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.)**