

03.05.2023
Sl. No.6
akd
[Rejected]

C. R. M. (NDPS) 647 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.03.2023 in connection with Lalgola Police Station Case No.351 of 2021 dated 25.05.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.95 of 2021)

And

In Re: ***Sahabul Hoque @ Muktar @ Mufkar & Anr.***

... .. Petitioners

Mr. Soumyajit Das Mahapatra
Mr. Tapodip Gupta

... .. for the petitioners

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Paramanick

... .. for the State

Petitioner submits charge sheet is an incomplete one as chemical examiner's report is not a part of it. Hence, he prays for statutory bail. He relies on ***Ritu Chhabaria vs. Union of India & Ors.***¹.

In the light of the direction of the Apex Court in ***Directorate of Enforcement vs. Manpreet Singh Talwar***², consideration of bail application with reference to ***Ritu Chhabaria*** (supra) is to be deferred.

Hence, the bail application has been considered on merits.

Chemical examiner's report is placed on record. Report shows presence of *codeine phosphate* in the sample.

Statements of witnesses including contemporaneous document i.e. seizure memo prima facie establish recovery of narcotic substance i.e. 105 bottles of *phensedyl syrup* containing *codeine phosphate*, which is above commercial quantity from the petitioners. 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 petitioners on merits.

¹ 2023 SCC OnLine SC 502

² 2023 SCC OnLine SC 545

The application for bail is thus rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)