

25.07.2023
Sl. No.15
akd
[Rejected]

C. R. M. (NDPS) 1309 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.07.2023 in connection with Raninagar Police Station Case No.451 of 2021 dated 09.10.2021 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.229 of 2021)

And

In Re: **Bapon Sk. & Ors.**

... .. Petitioners

Mr. Jisan Iqbal Hossain
Ms. Chandrima Debnath

... .. for the petitioners

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Bibaswan Bhattacharya

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for about two years. It is further submitted trial has not commenced. Accordingly, they pray for bail.

Learned Advocate for the State opposes the prayer for bail and submits delay is due to abscondence of co-accused.

We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotic substance i.e. 350 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 the score of delay, we note delay was caused due to abscondence of co-accused and cannot be attributed to the prosecution.

The application for bail is thus rejected.

Trial court is directed to exhaust all processes to ensure attendance of co-accused and in the event his attendance cannot be obtained, to declare him as proclaimed offender and to proceed with the trial with utmost expedition.

Parties shall communicate a copy of this order to the trial court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)