

01.09.2023

Sl. 16

Court No. 29

Suvayan

(Rejected)

C.R.M. (A) 3604 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure filed in connection with **Kaliachak** Police Station Case No. **264 of 2023** dated **06.03.2023** under Sections **21(C)/27A/29** of the NDPS Act.
And

In the matter of: **Chadu Mandal**

....petitioner.

Ms. Minoti Gomes

Mr. Arup Kumar Bhowmick

...for the petitioner.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

...for the State.

1. Heard learned Counsel for both the parties.
2. From the materials placed before us it is found that 1500 bottles of phensedyl was kept hidden in a brinjal field. The police recovered the contraband from the brinjal field. There is evidence of three eyewitnesses to the effect that the present petitioner along with two others were there in the brinjal field and seeing the police party they fled away from the spot.
3. Learned Counsel for the petitioner submits that the petitioner being a daily agricultural labourer was there in the field being engaged for the agricultural work in the field along with two others but there is no material to that effect to support the contention of learned Counsel for the petitioner.
4. Mr. Bardhan, learned Counsel for the State on the other hand submits that when the contraband was kept hidden in the brinjal field, the presence of the petitioner and two others there at the relevant time prior to the seizure cannot be said to be a chance presence at this stage. It might have so happened that the petitioner and two others were guiding the contraband being cognizant of the fact that contraband is

hidden there in the brinjal field and seeing the police party they fled from the spot.

5. We are one with the submission of Mr. Bardhan, learned Counsel for the State inasmuch as the aforesaid fact unless rebutted during trial, no view beyond the brief can be taken at the stage.
6. Regard being had to the gravity of the offence and bar under Section 37 of the NDPS Act, we are not inclined to exercise our discretion in favour of the petitioner under Section 438 Cr.P.C.
5. Accordingly, the prayer for the anticipatory bail is rejected.
6. The application being **CRM (A) 3604 of 2023** is dismissed.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

