

29.08.2023
Sl. No.7
akd
[Rejected]

C. R. M. (NDPS) 1451 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 23.08.2023 in connection with Excise SI Seizer List No.09 of 2023 dated 16.06.2023 under Sections 8(c)/21(c)/29(c) of the NDPS Act. (NDPS Case No.11 of 2023)

And

In Re: ***Utpal Das***

... .. Petitioner

Mr. Niladri Sekhar Ghosh
Ms. Sompurna Chatterjee
Mr. Sourov Mondal

... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Baisakhi Chatterjee

... .. for the State

1. It is submitted on behalf of the petitioner that he did not ordinarily reside at the premises from where narcotics was recovered. It is further submitted petitioner is the son-in-law of the family and had come to his father-in-law's residence hearing the news of the birth of his son. Accordingly, he prays for bail.
2. Learned Advocate for the State strongly opposes the prayer for bail and submits recovery was made from the possession of the petitioner. Plea that he did not ordinarily reside there is out and out false. Investigation is in progress.
3. We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotics above commercial quantity from the petitioner. It is contended on behalf of the petitioner that he did not ordinarily reside at the village and had come there hearing the news of his son's birth. This is an *alibi* which requires to be probalised by the petitioner at the appropriate stage of the proceeding.

Investigation is still in progress and the Investigating Agency may also look into such issue. 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 petitioner.

4. The application for bail is thus rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)