

08.09.2023
Sl. No.10
akd
[Rejected]

C. R. M. (NDPS) 1493 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.09.2023 in connection with Kaliyaganj Police Station Case No.172 dated 04.04.2022 under Section 21(c) of the NDPS Act. (NDPS Case No.30 of 2022)

And

In Re: **Nur Alam**

... .. Petitioner

Mr. Himanshu De .. Sr. Advocate
Mr. Navanil De
Mr. Rajeshwar Chakraborty
Mr. Srinjan Ghosh
Mr. Subhrajit Dey
Ms. Monami Mukherjee

... .. for the petitioner

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

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than a year. It is further submitted witnesses were unable to identify him. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits a large consignment of *phensedyl syrup* containing *codeine phosphate* above commercial quantity was recovered from a vehicle. Petitioner was the driver of the vehicle and arrested from the spot.
3. We have considered the materials on record. A large consignment of *phensedyl syrup* containing *codeine phosphate* above commercial quantity was recovered from a vehicle. Petitioner was the driver of the vehicle and arrested from the spot. This circumstantial evidence implicates him in the crime. Failure on the part of some of the witnesses to identify him during trial may be attributed to lack of re-collective faculty. This remiss has to be seen in the backdrop of the

other incriminating circumstances. Trial is in progress. 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.
5. Trial court is directed to conclude the trial as expeditiously as possible preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.
6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)