

13.09.2023
Sl. No.12
akd
[Rejected]

C. R. M. (NDPS) 1514 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.09.2023 in connection with Amdanga Police Station Case No.287 of 2022 dated 15.06.2022 under Section 21(c) of the NDPS Act.

And

In Re: ***Sahabuddin Mondal @ Shabu @ Sabu***
... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha
... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Debjani Dasgupta
... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for over a year. It is further submitted independent witnesses have not supported the prosecution case. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits on the leading statement of the petitioner narcotics i.e. 5.3 ltrs. of *codeine phosphate* was recovered from his residence. Petitioner has criminal antecedents.
3. We have considered the materials on record. Petitioner was initially arrested on the accusation of possessing illegal arms. On his leading statement, narcotics above commercial quantity was recovered from his residence. Trial is in progress. It is contended independent witnesses have not supported the prosecution case but the official witnesses with regard to recovery are yet to be examined. These witnesses had been won over and did not support the prosecution case. Their failure to support the prosecution case *per se* cannot lead to an inference of innocence. Hostile version of the said witnesses cannot be seen in isolation and must be examined in

the light of the other evidence i.e. of the official witness during trial. Moreover, petitioner has criminal antecedents and may indulge in similar activities if released on bail. Hence, we are of the opinion this is not a fit case to grant bail to the petitioner.

4. The application for bail is thus rejected.
5. Trial court is directed to expedite the trial and conclude the same at an early date.
6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)