

20.09.2023
Sl. No.11
akd
[Rejected]

C. R. M. (NDPS) 1552 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 14.09.2023 in connection with Bagnan Police Station Case No.459 of 2022 dated 02.09.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Pallab Senapati***

... .. Petitioner

Mr. Soumya Basu Roy Chowdhury

... .. for the petitioner

Mr. Sudip Ghosh

Mr. Koushik Kundu

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 383 days. During cross-examination, PW1 failed to identify the seal on the seized items. Hence, the chain of custody is broken. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits narcotics i.e. 22.5 kgs. of *Ganja* was recovered from the petitioner. Trial is in progress.
3. We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotic substance i.e. 22.5 kgs. of *Ganja*, which is above commercial quantity from the petitioner. Trial is in progress. Piecemeal examination of the deposition of a witness during trial is inadvisable. Impact of his evidence requires to be seen against other evidence on record including documentary evidence. Hence, we are inclined to record a finding with regard to the chain of custody of the seized articles which may be assessed by the trial court upon completion of evidence. In the light of the aforesaid

discussion and as recovery of narcotics is above commercial quantity warranting 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 at an early date 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.)