

29.09.2023

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rejected

C.R.M.(NDPS) No. 1565 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of STF Police Station Case No. 12 of 2020 dated 21.02.2020 under Sections 22(c)/29 of the NDPS Act.

And

In Re : Hanif Sk. petitioner

Mr. Md. Ejaz Quasim
Mr. Binod Kumar Mallick
... for the petitioner

Mr. Ranadeb Sengupta
... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than three years. It is also submitted that there is delay in trial. He prays for bail.

2. Learned Counsel for the State submits co-accused had absconded and as a result trial could not proceed.

3. We have considered the materials on record. 8.324 kgs. of Yaba Tablets containing Methamphetamine above commercial quantity had been secreted inside the door panel of a vehicle. Petitioner was inside the vehicle. This shows narcotics in the vehicle was within the control of the petitioner and was being transported in a surreptitious manner.

4. Under such circumstances and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner on merits.

5. On the issue of delay, we note co-accused who are on bail have absconded and this has resulted in delay. Prosecution is not responsible for the delay. Moreover, possibility of abscondence of the petitioner, if released on bail, is extremely high. Under such circumstances, we are not inclined to grant bail to the petitioner on the ground of delay.

6. The application for bail is, thus, rejected.

7. Trial court is directed to take immediate steps for apprehension of the absconding accused and if their attendance cannot be procured inspite of exhaustion of all processes to declare him as proclaimed offender and proceed with the trial in accordance with law.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)