

18.10.2023

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rejected

C.R.M.(NDPS) No. 1726 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Malda Police Station Case No. 573 of 2022 dated 12.12.2022 under Sections 21(c)/25/28/29 of the NDPS Act.

And
In Re : Gopal Mondal petitioner

Ms. Sujata Das
....for the petitioner

Mr. Sanjib Kumar Dan
Mr. Arijit Ganguly
..... for the State

1. Learned Counsel for the petitioner submits he was a mere passenger in a Bolero vehicle wherefrom narcotics above commercial quantity was recovered. He did not have conscious possession of the contraband. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits bail prayer of the co-accused Ismail Sk. was turned down by this Court in June, 2023. No recovery was made from the other co-accused who are on bail.

3. We have considered the materials on record. Petitioner was present in the vehicle wherefrom 360 gms. of Brown Sugar i.e. Heroin which is above commercial quantity was recovered. Bail prayer of co-accused Ismail Sk. who was in the vehicle with the petitioner wherefrom narcotics was recovered has been turned down. As no narcotics was recovered from the co-accused namely Chand Sk. @ Labbu Sk. and Iswar

Mandal they have been released on bail. Petitioner cannot claim parity with them. Manner and circumstances in which recovery was made prima facie establishes conscious possession of narcotics by the petitioner.

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.

5. Trial court is directed to conduct the trial with utmost expedition and conclude the same 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 co-operate with the trial court and communicate this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)