

28.11.2023.
05.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 1737 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.68 of 2022 arising out of Krishnaganj P.S. Case No.341 of 2022 dated 15.09.2022 under Sections 21(c) of the NDPS Act.

In the matter of : **Jahangir Mondal.**

... Petitioner.

Mr. Imtiaz Ahmed,
Mr. Ghazala Firdaus,
Mr. Mofakkerul Islam,
Sk. Saidullah,
Mr. Mithun Mondal,
Md. Arsalan,
Mr. Bani Israil,
Ms. Mana Sahnaj
Md. Shakil.

...for the Petitioner.

Mr. Ranadeb Sengupta.

...for the State.

1. Petitioner submits he has been falsely implicated. Co-accused are on anticipatory bail/bail. He is in custody for more than a year. He prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends co-accused who are on anticipatory bail/bail stand on different footing. No narcotics was recovered from most of them. Recovery from co-accused Debabrata Saha @ Debu Saha was from an open space accessible to all. On the other hand, recovery was made from the petitioner at the place of seizure.

3. We have considered the materials on record. BSF personnel had apprehended a group of smugglers. Some of them fled away. Petitioner was apprehended at the spot with

504 bottles of phensedyl syrup. He assaulted BSF personnel and tried to flee away but failed. Implication of others is based on statements of co-accused. Accordingly, they were enlarged on bail. Another co-accused, Debabrata Saha @ Debu Saha was released on bail on the ground that the subsequent recovery was pursuant to the alleged discovery made from a place accessible to all. These circumstances show petitioner stands on an entirely different footing from co-accused. One of the co-accused who was enlarged on anticipatory bail absconded contributing to the delay.

4. In view of the aforesaid facts, we are of the opinion there are ample materials involving the petitioner in smuggling narcotics above commercial quantity across the international border and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

5. Accordingly, the prayer for bail of the petitioner is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)