

C.R.M. (NDPS) No. 1787 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Ultadanga Excise Circle S.I.S.L. No. 01/2021 – 2022, 01/A of 2021-2022 and 01/B of 2021-2022** dated **01/09/2022** under Sections **20(b)(ii)(b)** of the NDPS Act.

And

In the matter of: - Chandan Das & anr.

....petitioners.

Mr. Joy Chakraborty,
Mr. Sandip Dinda

...for the petitioners.

Mr. Bidyut Roy,
Ms. Puspita Saha

...for the State.

1. The learned counsel for the petitioners contends that there has been violation of the NDPS Act inasmuch as Column - X of the Memo of Arrest was kept vacant.
2. That apart, similar quantities of the contraband article, each of which is below commercial quantity, were recovered from the different co-accused persons, including the petitioner, on different dates.
3. Moreover, over two years and one month have elapsed. That apart, only one out of twelve witnesses has been examined as yet.
4. Learned counsel for the State opposes the prayer for bail and submits that the similar prayer for bail of a co-accused person was refused by a coordinate Bench on July 22, 2022

in CRM (NDPS) No. 814 of 2022.

5. We find from the observations made in the said order of the coordinate Bench that the Division Bench proceeded on the premise that recoveries were made from the petitioners and the co-accused persons on various dates but it was inclined to refuse bail since the petitioners herein and the co-accused persons had been charged with conspiracy and the accusation, in its opinion, could not be scaled down with reference to recovery from each accused.
6. It was further observed that the statement of the police officer corroborated with each other with regard to the recovery from the petitioners and the co-accused and reasons for not joining independent witness may be thrashed out in course of trial.
7. Although we find that points similar to those urged now have been dealt with conclusively for the purpose of bail by the coordinate Bench, at that juncture the petitioner therein was in custody for eleven months, which was also recorded by the coordinate Bench. Since the present petitioners are in incarceration for more than two years now and only one out of total twelve witnesses has been examined, we find that there is no further requirement of custodial interrogation of the petitioners.
8. Under such circumstances, keeping in view the long period of incarceration already suffered by the petitioners and the

pendency of trial, CRM (NDPS) No. 1787 of 2023 is allowed, thereby granting bail to the petitioners on condition that the petitioners furnishes bond of Rs.10,000/- each, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Alipore, South 24 Parganas. The sureties may be common for each of the petitioners.

9. The petitioners shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
10. The petitioners, further, shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)

