

01.11.2023
22.
Court no. 8
Sd/br

***In the High Court at Calcutta
Criminal Miscellaneous Jurisdiction
Appellate Side***

CRM (NDPS) 1793 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.10.2023 in connection with Shyampukur Police Station Case No. 30 of 2022 dated 23.03.2022 under Sections 21(c) /29 of the NDPS Act, 1985.

In the matter of : Hajjiul Khanpetitioner.

Mr. Apalak Basu
Mr. Soumajit Chakraborty
...for the petitioner.

Mrs. Faria Hossain
Mr. Ashok Das
.....for the State.

1. Learned counsel for the petitioner contends that the amount of recovered substance was 262 grams of heroin, which is barely above the commercial quantity.
2. The petitioner is already in custody for about one year and seven months and the trial has not progressed effectively.
3. Learned counsel argues that there has been contravention of Section 41B of the Code of Criminal Procedure inasmuch as the seizure witnesses at the time of arrest are the charge-sheeted witnesses for the prosecution.

4. Learned counsel for the State opposes the prayer for bail and contends that the next date is fixed on December 7, 2023 for commencement of evidence.

5. We find that in the present case, charges have already been framed and the evidence is about to commence. In so far as the allegation regarding contravention of provisions of the special statute is concerned, the same is not so palpable so as to vitiate the rigours of Section 37 of the N.D.P.S Act but is at best a subject matter of the trial.

6. In such view of the matter, CRM(NDPS) 1793 of 2023 is dismissed. However, the trial court is directed to conclude the trial as expeditiously as possible, positively within a year from this date.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)