

18.12.2023
Sl. No.15
akd
[Rejected]

C. R. M. (NDPS) 1859 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.11.2023 in connection with Panchla Police Station Case No.186 of 2023 dated 29.01.2023 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***Tarak Singh***

... .. Petitioner

Ms. Sanjukta Samanta

... .. for the petitioner

Mr. Swapan Banerjee
Mrs. Sujata Das

... .. for the State

1. It is submitted on behalf of the petitioner that the arrest was not in consonance with the directives of the Apex Court in *D. K. Basu vs. State of West Bengal*¹. It is further submitted that recovery was not made from him and he was a mere driver of the vehicle. There is non-compliance of Section 50 of the NDPS Act. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner was the driver of the vehicle. 28 kgs. of *Ganja* was recovered from the vehicle. Bail prayer of the petitioner and co-accused had been rejected earlier.
3. We have considered the materials on record. Petitioner was the driver of the vehicle. The vehicle was used for transportation of narcotics. Statements of witnesses and other relevant documents prima facie establish the involvement of the petitioner and his conscious knowledge in transportation of narcotics above

¹ (1997) 1 SCC 416

commercial quantity. As the recovery was made from a vehicle and not from a person the facts of the case do not attract provisions of Section 50 of the NDPS Act. Statements of witnesses and contemporaneous documents overwhelmingly establish presence of the petitioner in the vehicle wherefrom narcotics was recovered. Under such circumstances, irregularity, if any, in the matter of arrest does not infringe on the credibility of the prosecution case. In the light of the aforesaid facts and statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

4. The application for bail is thus rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)