

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

27.02.2023.
28.
as
(Rejected)

C.R.M. (NDPS) 152 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with CR (NDPS) Case No. 175 of 2021 arising out of Matigara P.S. Case No.1319 of 2021 dated 20.11.2021 under Sections 21(C) of the NDPS Act.

In the matter of : Md. Islam @ Islam. ... Petitioner.

Mr. Sourav Sarkar.

...for the Petitioner.

Mr. Aditi Shankar Chakraborty, Id. A.P.P.

...for the State.

It is contended narcotics i.e. heroin recovered from the petitioner is below commercial quantity.

Learned Advocate for the State opposes the bail prayer.

We have considered the materials on record. Petitioner and co-accused were moving together. 270 grams of heroin was recovered from co-accused and 30 grams of brown sugar was recovered from the pocket of the petitioner. Circumstances attending the recovery show communality of interest of the petitioner and co-accused to transport narcotics i.e. 300 grams heroin.

Under such circumstances, recovery of narcotics from the petitioner cannot be treated in isolation to determine his culpability. In view of the aforesaid circumstances and

statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

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

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)