

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

27.02.2023
54.
as
(Rejected)

C.R.M. (NDPS) 186 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with CR (NDPS) Case No. 71 of 2020 arising out of Matigara Case No.1086 of 2020 dated 22.10.2020 under Sections 17(C)/20(C) of the NDPS Act.

In the matter of : Subodh Kumar Roy & Anr.
... Petitioners.

Mr. Sudhindra Das.
...for the Petitioners.

Mr. Adhiti Shankar Chakraborty, Id. A.P.P.,
Mr. Sourav Ganguly.
...for the State.

Petitioner is in custody for more than two years. It is submitted he was not in the vehicle wherefrom narcotics was recovered. Without prejudice to the aforesaid, it is contended he is entitled to statutory bail. Extension of the period of detention in terms of Section 36(A)(4) of the NDPS Act was made after he availed to his statutory bail.

Learned Advocate for the State opposes the bail prayer. He submits trial is in progress.

We have considered the materials on record. Statements of witnesses and other documents show petitioner was in the vehicle which accompanied the one wherefrom narcotics was recovered. Close proximity and association between occupants of the two vehicles show commonality of interest to transport narcotics. Though application for extension was made earlier,

the same was considered on an adjourned day. In the interregnum the application for statutory bail was filed.

In view of M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence ¹ once an application for extension is filed, the statutory bail cannot be considered till the said application is disposed of.

Under such circumstances, we are of the view petitioner is neither entitled to statutory bail nor on merits. Trial is in progress.

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

Petitioner contends that he is a senior citizen and languishing in jail for more than two years.

We request the trial court to expedite the trial and conclude the same at an early date preferably within a year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

(Subhendu Samanta, J.)

(Joymalya Bagchi, J.)

¹ (2021) 2 SCC 485