

07.06.2023
Court No.01
Item No. 34
Rejected

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

sg

CRM (NDPS) 379 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with New Jalpaiguri Police Station Case No. 1184 of 2021 dated 01.11.2021 under Section 21(c)/22(c)/25/29 of the NDPS.

And

In Re: **Rafikul Hoque @ OPO**

Petitioner

Mr. Kalipada Das

For the Petitioner

Mr. Saikat Chatterjee
Mr. Chattu Roy

For the State

The learned Counsel for the petitioner submits that the petitioner is innocent and he was merely a passenger in a private vehicle without having any knowledge of any contraband articles in the vehicle. The petitioner was not in conscious possession of any contraband articles.

The learned Counsel for the State, however, submits that the contraband articles over commercial quantity were seized from the vehicle in which there were four persons having domain and control over the contraband items.

Considering the materials available in the CD, the statement of the witness and the seizure memo indicating recovery of contraband items over commercial quantity from the joint possession of four accused persons and having regard to the fact that the control and domain over the narcotics substance are prima facie

established from the aforesaid documents and in view of the restriction contained in Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

However, we make it clear that our observation shall not influence the trial and the learned Trial Court shall decide the matter independent of the observation made in this order.

We have been informed that the trial court has already framed charges and a schedule has been prepared by the trial court to proceed with the trial.

We request the learned court to proceed with the trial as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable.

The application for bail of the petitioner is rejected. CRM (NDPS) 379 of 2023 is accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)