

JPD-40
Ct No.01
21.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction

CRM (NDPS) 741 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 12.09.2023 in connection with Bhaktinagar Police Station Case No. 1572 of 2021 dated 14.12.2021 under Sections 21(C)/22(C)/23(C) of the NDPS Act, 1985 and adding Section 29 of the NDPS Act.

And

In the matter of: Md. Yusuf Ali Khan @ Md. Yusuf Ali

.... Petitioner

Mr. Hillol Saha Podder,
Ms. Mousumi Das

... for the petitioner

Mr. Ujjwal Luksom,
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioner argues that the provision of Section 52A of the NDPS Act was not complied with. It is contended that the petitioner is also in custody for one year nine months.
2. The prayer for bail is vehemently opposed by the State. Learned counsel for the State points out that the prayer of bail of the petitioner has been rejected on several occasions, lastly as recently as on September 04, 2023. It is further denied that the provisions of Section 52A of the NDPS Act were contravened.

3. We find from the annexures to the application that the petitioner's prayer for bail was rejected on February 27, 2023 on the ground that the petitioner does not stand on equal footing as the co-accused who was granted bail, particularly since the narcotics were recovered from the petitioner.
4. In the order of refusal of bail dated September 04, 2023, we find that the coordinate Bench held that the contraband substances obtained were clearly above the commercial quantity and the rigours of Section 37 were applicable.
5. We do not find that any whisper of contravention of Section 52A was made even before the coordinate Benches either on February 27, 2023 or on September 04, 2023. We are convinced that nothing substantial has occurred in-between September 04, 2023 and the present date to justify grant of bail to the petitioner, which would virtually tantamount to reversing the order of the coordinate Benches.
6. Accordingly, CRM (NDPS) 741 of 2023 is dismissed.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)