

17.01.2024

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rejected

C.R.M.(NDPS) No. 98 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Goalpokher Police Station Case No. 44 of 2022 dated 24.01.2022 under Section 21(c) of the NDPS Act.

And

In Re : Miraj Alam alias Prince petitioner

Mr. Kushal Paul

....for the petitioner

Mr. Bibaswan Bhattacharya

... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than two years. It is also submitted that independent witnesses to the seizure have not supported the case. There is overwriting in the seizure memorandum. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits official witnesses i.e. members of the raiding party have supported the seizure.

3. We have considered the materials on record. Members of the raiding party i.e. PWs 5, 6 and 7 deposed 100 bottles of Phensedyl Syrup containing codeine phosphate were recovered. Witnesses to seizure who turned hostile have been cross-examined. Impact of their deposition and the alleged overwriting in the seizure memorandum cannot be seen in isolation and must be assessed in the light of the other evidence

on record. Trial has substantially progressed and seventh witness is being examined. Prosecution proposes to examine one more witness. Under such circumstances, we are not inclined to grant bail to the petitioner.

4. Application for bail is, thus, rejected.

5. Trial court is directed to expedite the trial and conclude the same within a period of six months from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)