

19.02.2024
Sl. No.18
akd
[Rejected]

C. R. M. (NDPS) 287 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.02.2024 in connection with NCB Crime No.22/NCB/KOL/2021 dated 01.07.2021 under Sections 8(c)/21(c)/29 of the NDPS Act. (NDPS Case No.126 of 2021)

And

In Re: **Bapon Ghosh**

... .. Petitioner

Mr. Arnab Chatterjee
Ms. Dhanasree Biswas
Ms. Poulami Bose

... .. for the petitioner

Mr. Arun Kumar Maiti
Ms. Sumita Sarkar

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about one year and six months. It is further submitted no narcotic substance was recovered from his possession. Trial has not commenced. Accordingly, he prays for bail.
2. Learned Advocate for the NCB opposes the prayer for bail.
3. We have considered the materials on record. Statements of BSF personnel show petitioner and co-accused viz. Mithun Das were smuggling *Morphine* across international border. They handed over their identity cards to BSF personnel at the border. On suspicion BSF personnel intended to search their bag. They fled away. Upon search, 2.076 kgs. of *Morphine* was recovered from their bag. These circumstances prima facie disclose involvement of the petitioner in possession and dealing in narcotics above commercial quantity. Date has been fixed for recording prosecution evidence. Under such circumstances and in view of the statutory restrictions under Section

37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

4. The application for bail is thus rejected.
5. Trial court is directed to fix schedules at short intervals and conclude the trial at an early date preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties. In the event BSF personnel are posted elsewhere, trial court shall resort to their examination through video linkage.
6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)