

3. In response, learned Counsel for the petitioner submits recovery made from the petitioner was 209 gms. of Heroin which is below commercial quantity.

4. We have considered the materials on record. In the course of raid petitioner and Lokeman Mallick were arrested. They were travelling together and from their possession 209 gms. and 312 gms of Heroin respectively were recovered. Total recovery of Heroin from the petitioner and Lokeman Mallick was 521 gms of Heroin. Charges have been framed not only for possession of Heroine under Section 21(c) of the NDPS Act but also for abetment under Section 29 of the NDPS Act. Petitioner and Lokeman Mallick do not stand on the same footing with Aftabuddin Sk. @ Ajibul and Sahnwas Shaikh. Unlike petitioner and Lokeman Mallick other two accuseds had not been arrested at the spot. Their complicity in the charge of abetment is primarily founded on the statement of the co-accused. Taking note of these circumstances Aftabuddin Sk. @ Ajibul and Sahnwas Shaikh had been granted bail. Petitioner and Lokeman Mallick were travelling together with 521 gms of Heroin which is above commercial quantity. Aforesaid circumstances prima facie establish commonality of intention in dealing with Heroin above commercial quantity. Unlike co-accused who are on bail charge under Section 29 of the NDPS Act against the petitioner and Lokeman Mallick is founded on cogent materials and not on the statements of the accused persons alone. Trial has already commenced. Under such circumstances and in view of statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

5. The application for bail is, thus, rejected.

6. 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.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)