

01.03.2024.
17.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 394 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.65 of 2021 arising out of Dalkhola P.S. Case No.183 of 2021 dated 26.08.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : **Rakibul Haque @ Rakimbul @ Rakibul.**
... Petitioner.

Mr. Abhishek Sarkar,
Mr. Dipanjan Datta.

...for the Petitioner.

Mr. Koushik Kundu.

...for the State.

1. Petitioner contends he is in custody for over 900 days. One of the samples did not test positive to heroin. There is no signature in the arrest memo. Trial is not proceeding at a reasonable pace. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends 262 gms of brown sugar i.e. heroin was recovered from petitioner and co-accused. Trial is in progress and three witnesses have been examined.

3. We have considered the materials on record. Narcotics above commercial quantity was recovered from the joint possession of petitioner and co-accused. Juvenile accused has been enlarged on bail. Petitioner cannot claim parity with him. Absence of heroin in one of the samples is of little consequence as the other samples which were drawn from the same contraband tested positive to heroin. Statements of

official witnesses and seizure memorandum *prima facie* establish recovery of the narcotics from petitioner and co-accused. Absence of signature on the arrest memo has to be seen in the light of the other cogent incriminating materials on record. Trial has already commenced and three witnesses have been examined. It cannot be said prosecution is indolent in this regard.

4. Under such circumstances, we are not inclined to grant bail to the petitioner at this stage.

5. Accordingly, the prayer for bail of the petitioner is rejected.

6. We request the trial court to expedite the trial and conclude the same at an early date without granting unnecessary adjournment to either of the parties.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)