

04.03.2024.
14.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 423 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.122 of 2022 arising out of Kaliachak P.S. Case No.875 of 2022 dated 12.08.2022 under Sections 21(C)/27A/28 of the NDPS Act.

In the matter of : **Md. Ziaul Hoque.**

... Petitioner.

Ms. Sonali Das,
Mr. Avishek Prasad.

...for the Petitioner.

Ms. Amita Gaur.

...for the State.

1. Petitioner is in custody for 105 days. He submits he is a dealer in medicine and had no role to play in illegal trafficking of phensedyl syrup for non-medicinal purposes. Co-accused have been enlarged on bail. Accordingly, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. She submits the case involves illegal diversion of medicinal product containing codeine phosphate for non-medicinal use. Batch numbers of the drugs supplied to other co-accused did not match with the illegally diverted drugs recovered during raid. However, batch numbers supplied to the petitioner by the manufacturer have matched with the recoveries made.

3. We have considered the materials on record. Allegations involve inter-State dealing in narcotics. Drugs containing codeine phosphate were illegally diverted for non-

medicinal use. During raid a batch of phensedyl syrup containing codeine phosphate above commercial quantity was recovered from one Alok Kumar Mondal. Investigation revealed that batch numbers of the recovered drugs matched with those supplied to the petitioner's firm by the manufacturer.

4. Hence, petitioner stands on a different footing from the other medicine dealers who have been released on bail as the recovered drugs did not match with the batch numbers supplied to them. Alok Kumar Mondal is still in custody.

5. Under such circumstances, we are of the opinion drugs supplied to petitioner were illegally diverted for illegal purposes. Keeping in mind, these incriminating circumstances and the statutory restrictions under Sections 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)