

28-05-2024  
s.d & b.r  
Item no.18  
**Bail allowed**

IN THE HIGH COURT AT CALCUTTA  
Criminal Miscellaneous Jurisdiction

**C.R.M(NDPS) No.880 of 2024**

**Rakibul**

**-vs-**

**The State of West Bengal**

**In Re:** An application for bail under Section 439 CrPC 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.

Mr. Md. Nauroz Rahber  
Mr. Amit Ranjan Pati  
Mr. Mohammad Jawwad

...for the petitioner.

Mr. Arijit Ganguly  
Mr. Ronit Mukherjee

... for the State.

Learned advocate for the petitioner submits as follows. The petitioner is in custody for about 2 years and seven months. Earlier the petitioner's application for bail was turned down by this Court on 01-03-2024 in CRM (NDPS) 394 of 2024. However, soon thereafter, a co-accused namely, Anarul Haque moved an application for bail being CRM (NDPS) 421 of 2024. On 05-03-2024, this Court held that the question of quantity of narcotics recovered was not taken up in the present petitioner's application. After finding that the quantity of contraband falls within the range of inter-mediate quantity, bail was granted to the said accused. The petitioner stands on the same footing.

Learned advocate for the State relies on case diary and submits as follows. A prima facie case is made out by the petitioner. However, in the petitioner's earlier application for bail, the issue of total quantity of contraband after making necessary adjustment was

not agitated. However, the learned advocate for the State opposes the prayer for bail of the petitioner.

In the order dated 05-03-2024 passed by a co-ordinate Bench of this Court in CRM (NDPS) 421, it was held as under-

“In the present bail application, this issue has been agitated which had not been considered while rejecting the bail of co-accused viz, Rakibul Haque @ Rakimul @ Rakibul. As the contraband from which samples were drawn were in three separate packets, quantity of narcotics recovered must be calculated after discounting the weight of the packet whose sample tested negative i.e. 27 gms. Subtracting the aforesaid weight from the total quantity recovered i.e. 262 gms, quantity of narcotics recovered amounts to 235 gms. i.e. below commercial quantity”.

In view of the same, the restrictions under Section 37 of the NDPS Act were found to be not applicable and bail was granted to the accused.

It appears that the petitioner stands on a same footing. Furthermore, the petitioner is in custody for about 2 years 7 months.

In view of the above, we are inclined to allow the application for bail of the present petitioner.

Accordingly, the present petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Raiganj, Uttar Dinajpur.

Further, the petitioner shall regularly attend the trial court on the dates so fixed.

The application for bail, being CRM(NDPS) 880 of 2024, is disposed of.

Urgent certified copy of this order, if applied for, be given to the

parties after compliance of necessary formalities.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this court.

[Uday Kumar, J.]

[Jay Sengupta, J.]