

23.08.2024
Item no. 29.
Court No.28.
AB
(Rejected)

CRM (NDPS) 1277 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Airport P.S. Case No.48 of 2023 dated 23.3.2023 under Sections 20(b)(ii)(c) 27A/29 of the NDPS Act

And

In the matter of : Biswajit Khatua & Anr.

.....Petitioners.

Mr. Anshuman Chakraborty
Mr. S. S. Saha

.....for the Petitioners.

Mr. Avishek Sinha
Ms. Ratna Ghosh

.....for the State.

Dictated by Arijit Banerjee, J.

1. 144 kilograms of ganja was recovered from the joint possession of the petitioners.
2. The petitioners complain that they are in custody for one year and six months. Even charges have not yet been considered. Seizure was not made in presence of a Gazetted Officer. Therefore, according to them, the prosecution case must fail. They pray for bail.
3. While opposing the prayer for bail, learned Advocate for the State draws our attention to the material in the case diary, which prima facie shows that the seizure was made in presence of a Gazetted Officer i.e. Subhasish Banik, Deputy S. P. The procedure of seizure was also videographed. He says that there

are 11 witnesses, but all of them may not be examined.

4. Learned Advocate for the petitioners says that Subhasish Banik's name has not been included in the charge sheet as a witness. Learned Advocate for the State says that that can be done by following the procedure under Section 319 Cr.P.C.
5. Considering that commercial quantity of ganja was seized from the joint possession of these petitioners and in view of the restriction in Section 37 of the NDPS Act, we are not inclined to allow the petitioners' prayer for bail.
6. The prayer for bail is, accordingly, rejected.
7. CRM (NDPS) 1277 of 2024 is dismissed.
8. However, keeping in mind the lengthy detention of the petitioners, we direct the learned Trial Court to positively take up the issue of framing of charge on the next date fixed i.e. September 5, 2024, and if charge is framed, to conclude the trial within a year from the date of framing of charge failing which the petitioners will be at liberty to renew their prayer for bail.
9. The parties shall communicate this order to the learned Trial Court.

10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)