

22.04.2024
Court No.01
Item No. 15

Rejected

sg

CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI

CRM (NDPS) 101 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kharibari Police Station Case No.206 of 2023 dated 07.08.2023 under section 21(c) and 22(c) of the NDPS Act.

And

In Re: **Utpal Das @ Puchki**

Petitioner

Ms. Rima Sarkar,
Ms. Sidhi Sethia,
Ms. Suparna Paul

For the Petitioner

Mr. Nilay Chakraborty
Ms. Namrata Das

For the State

1. We have heard the learned Counsel for the parties. In support of the application for bail, the learned Advocate for the petitioner, at the very outset, has drawn our attention to the supplementary affidavit as filed today. It is submitted that the present accused petitioner has been falsely implicated. From the supplementary affidavit as filed today, it is revealed that in a similar case of like nature, the present accused petitioner has been arrayed as a witness to a seizure of contraband articles. It is further submitted that from the materials as placed before the Court, it would reveal that nothing was seized from the conscious possession of the present accused petitioner and on

the contrary, the said contraband was alleged to have been seized from a shop room.

2. The prayer for bail is opposed on behalf of the State. Drawing our attention to the relevant part of the case diary it is submitted that the present accused petitioner was intercepted by the investigating officer and as per his showing, the commercial quantity of contraband was recovered from a shop room which is evident from the FIR as well as from the seizure list.
3. On perusal of the entire materials as placed before this Court, we are of the view, at least prima facie, that sufficient amount of contraband was recovered from a shop room which has been shown by the present accused petitioner after his interception by the FIR maker. Whether such recovery tantamount to recovery from the conscious possession of the present accused petitioner, cannot be determined at this stage.
4. Considering the serious nature of allegation as leveled against the present accused petitioner, we are not inclined to exercise our discretion under Section 439 of the Code of Criminal Procedure especially in view of the statutory restriction under Section 37 of the NDPS Act.
5. Accordingly, the prayer for bail is considered and rejected. CRM(NDPS)/101/2024 is, thus, dismissed.

(Soumen Sen, J)

(Partha Sarathi Sen, J)