

30.04.2024
SL No.17
Court No.1
(gc)
(rejected)

***Circuit Bench of Calcutta High Court
At Jalpaiguri***

CRM (NDPS) 154 of 2024

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Matigara Police Station Case No.144 of 2022 dated 28/01/2022, under Sections 20(b)(ii)(c) and 29 of the NDPS Act, 1985.

And

In the matter of : **Zahid Khan @ Raju**

- Petitioner.

Mr. Arijit Ghosh

....For the Petitioner.

Mr. Abhijit Sarkar,

Mr. Tapan Bhattacharjee

....For the State.

1. In course of hearing, learned Counsel for the petitioner submits before this Court that the present accused petitioner is similarly circumstanced with a co-accused who has been enlarged on bail in CRM (NDPS) 99 of 2024 by a Coordinate Bench.
2. Learned Counsel for the State, however, opposes the prayer for bail. It is argued that commercial quantity of contraband was seized from the joint possession of the present accused petitioner and the other accused person.
3. On perusal of the entire materials as placed before us it reveals that similar prayer of the present accused petitioner was dismissed by another Coordinate Bench on 12.09.2023. It further appears that the present accused

petitioner is not similarly circumstanced with the above named co-accused since while considering the application of co-accused, the Coordinate Bench has also taken into consideration the health condition of the said co-accused, namely, Nur Mahamad Khan @ Nur Mohamad.

4. In view of such facts and in view of statutory restriction under Section 37 of the NDPS Act, we are not inclined to exercise our discretion under Section 439 of the Cr.P.C.
5. Accordingly, the prayer for bail is rejected.
6. The Trial Court is directed to conclude the trial by invoking Section 309 of the Cr.P.C. preferably within one year from the next date fixed. It is further directed that the learned Trial Court shall ensure the production of all the alamats and appearance of the prosecution witnesses on each date of substantive hearing, failing which, the learned Trial Court shall be at liberty to enforce its order in accordance with law.
7. All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)