

JPD-6
Ct No.01
29.07.2024
S. Bag

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 304 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Jaigaon Police Station Case No. 11 of 2024 dated 11.01.2024 under sections 21(c), 25, 29 of the N.D.P.S. Act, 1985.

And

In the matter of: Ranjan Sah

....petitioner

Ms. Deblina Ray, Adv.
Ms. Rishita Chakraborty, Adv. .

.

... for the petitioner

Mr. Abhijit Sarkar, Adv.
Mr. Tapan Bhattacharjee, Adv.

... for the State

1. Learned counsel for the petitioner contends that the petitioner a is 73% disabled person suffering from Post Polio Residual Paralysis in the left leg. A disability certificate is also annexed to the petition to strengthen such argument. Learned counsel submits that since the contraband article was seized from a scooty and the prosecution alleges that the petitioner was driving the same, the same has no credibility due to such disability of the petitioner.
2. Such argument, however, is specious. On query of court as to what the petitioner does with the scooty, it is submitted that

the petitioner uses the same with a helper. As per the allegation of the prosecution, one other person was there on the scooty at the relevant juncture, who absconded and could not be arrested. Thus, the possibility cannot be ruled out that the petitioner was on the scooty with the contraband with his helper and the disability *per se* does not come to the aid of the petitioner in view of the aforesaid narrated circumstances. As such, we do not find any reason not to attach the presumption under Section 37 of the NDPS Act at this stage.

3. The State also opposes the prayer for bail.
4. We are thus inclined to reject the prayer and CRM (NDPS) 304 of 2024 is accordingly dismissed.
5. It is made clear that nothing in this order shall prevent the petitioner to renew similar prayer in the event the trial is not commenced expeditiously.

(Sabyasachi Bhattacharyya, J.)

(Prasenjit Biswas, J.)