

07.11.2024
Item no. 12.
Court No.1.
AB
(Rejected)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (NDPS) 453 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 Sitalkuchi Police Station Case No.444 of 2024 Dated 21.09.2024 under Sections 21C of the NDPS Act

And

In the matter of : Alom Miah

.....Petitioner.

Mr. Sandip Guha Royfor the Petitioner.

Mr. Tapan Bhattacharjee
Ms. Sukanya Adhikaryfor the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that he is not involved in the alleged crime. He is in custody for 47 days. He further says that the provisions of Section 50 of the NDPS Act, 1985, have been breached. He relies on a judgment of the Hon'ble Supreme Court in the case of ***Vijaysinh Chandubha Jadeja Vs State of Gujarat*** in Criminal Appeal No.943 of 2005. He prays for bail.
2. Learned State Counsel opposes the prayer for bail. He says that the seizure list will show that huge quantity of narcotics was recovered from the house of the petitioner. Investigation is in progress.

3. In view of the much more than commercial quantity of narcotics being involved, keeping in mind the restrictions in Section 37 of the NDPS Act, we are not inclined to allow the petitioner's prayer for bail, at this stage.
4. The prayer for bail is rejected.
5. Further, investigation is going on.
6. The judgment relied upon by the petitioner was passed in an appeal preferred from conviction. The conviction was set aside on the ground of non-compliance with the provisions of Section 50 of the NDPS Act, which was held to be mandatory. The judgment, however, does not discuss as to whether at all and if so, to what extent the restrictions in Section 37 of the NDPS Act are watered down if there is non-compliance with the provisions of Section 50 of the NDPS Act.
7. In view of the aforesaid, this application fails and the same is hereby dismissed.
8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)

