

05.03.2025
Item No.7
Court No. 26
CHC
Rejected

CRM (NDPS) 1852 of 2024

In re : An Application for **Bail** under Section 439 of the Code of Criminal Procedure as amended/under Section **483** of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with NDPS Case No.79/2023, arising out **Baishnabnagar** Police Station Case No. **542/2023** dated **13.08.2023** under Sections **21(c)/25/29** of the Narcotic Drugs and Psychotropic Substances Act, and Charge Sheet submitted under Sections 21(c)/25/27A/28/29/30 of the Narcotic Drugs and Psychotropic Substances Act.

-And-

In the matter of : **Mojibar Sekh @ Majibar Sekh**
... ...**Petitioner**

Mr. Deep Chaim Kabir, Senior Advocate
Ms. Benajir Hasna, Advocate
Mr. M. H. Chawdhury, Advocate
Mr. Aliul Islam, Advocate
Mr. Sadid Haider, Advocate
... ... For the Petitioner

Mr. Joydeep Biswas, Advocate
Ms. Madhumita Basak, Advocate
... ...For the State

1. Petitioner renews the prayer for bail.
2. Learned Senior Advocate appearing for the petitioner relies upon **(2022) 12 SCC 633 (State vs. Pallulabid Ahmad Arimutta and Ors.)** and submits that, there is hardly any material as against his client. He points out that, the trial is in progress.
3. Bail of the petitioner was last rejected by the coordinate Bench on June 28, 2024 passed in CRM(NDPS) 1015 of 2024. Prior thereto, a prayer for bail made by the petitioner was

dismissed as not pressed on October 17, 2023 passed in CRM(NDPS) 1711 of 2023. Thereafter, the merits of the materials on record as against the petitioner were considered by the coordinate Bench on January 31, 2024 passed in CRM(NDPS) 2087 of 2023.

4. Coordinate Bench on January 31, 2024 recorded as follows:-

“3. We have considered the materials on record. Narcotics above commercial quantity i.e. 9.989 kgs. of heroin was recovered from co-accused Pradip Xaviar Tirkey and Samuel Lhunminlun Khungsai. CDRs shows repeated phone calls between petitioner and co-accused. The aforesaid circumstance is corroborated by money trail traced during investigation. Statement of co-accused Pradip Xaviar Tirkey shows petitioner had routed money through one Babu and his son to the said co-accused. Statements of witnesses also show petitioner and the said Babu were carrying business together.”

5. Same grounds are canvassed before us to contend that, there are no materials as against the petitioner to detain him in custody. We are not in a position to arrive at a different finding than that of the coordinate Bench as recorded on January 31, 2024. We cannot be invited to sit in appeal over the order of coordinate Bench.
6. **Pallulabid Ahmad Arimutta (supra)** considers the case of confessional statement made by the coaccused while in custody.

7. The present case as against the petitioner is not only statement of coaccused but other compelling materials available on record as noted by the coordinate Bench.
8. In such circumstances, we are of the view that, the petitioner is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985. We are not inclined to grant bail to the petitioner.
9. Prayer for bail of the petitioner is **rejected**.
10. CRM(NDPS) 1852 of 2024 is **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)