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CRM 8868 of 2020

(Via Video Conference)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar P.S. Case No.1184 of 2019 dated 26.11.2019 under Sections 8(c)/22(c) of the NDPS Act.

And

In the matter of: Md. Ismail@ Mohammad@ Ismile [Sk.@Mohammad](#) Ismile@ Ismail

....Petitioner.

Mr. Soumya Nag

...for the Petitioner.

Mr. Saibal Bapuli, APP

Mr. A. Bhattacharyya

...for the State.

It is submitted that no narcotic substance was recovered from his possession.

Learned lawyer for the State opposes the prayer for bail and submits that the petitioner alongwith other co-accused persons were dealing in narcotic substance above the commercial quantity.

Having considered the materials on record and keeping in mind the extent of complicity of the petitioner in the alleged crime and as no narcotic substance was recovered from his possession and as his complicity in the alleged crime had transpired from the statement of co-accused before a police officer, which is inadmissible evidence, we are of the opinion that petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and in view of the period of detention suffered by him that is, 361 days, we are inclined to grant bail to the petitioner.

Accordingly we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/-(Rupees Ten thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special 3rd Court, Malda (under NDPS Act) subject to condition that the petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)