

23.12.2020
36
Sdas
allowed

**CRM 9614 of 2020
(via video conference)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hili Police Station Case No. 34 of 2017 dated 07.02.2017 under Sections 411/414 of the Indian Penal Code read with Sections 21(C)/22(C)/23(C)/27A NDPS Act.

And

In Re : Lokman Mondal petitioner

Mr. Arup Sarkar

.....for the petitioner

Mr. Rudradipta Nandy

..... for the State

Learned Counsel appearing for the petitioner submits that no narcotic substance was recovered from the petitioner. Co-accused has been granted pre-arrest bail.

Learned Counsel appearing for the State produces the case diary.

Having considered the materials on record and keeping in mind the nature of allegations and in the light of the submission that there is no seizure of narcotic substance from the possession of the petitioner and since his complicity has transpired from the statement of co-accused before the police officer which is inadmissible in evidence, we are of the opinion that petitioner has been able to rebut the statutory presumption under Section 37 of the NDPS Act and in view of the period of detention suffered by the petitioner i.e. 66 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/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Dakshin Dinajpur at Balurghat, subject to condition that the petitioner 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 fails 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.)