

16.12.2020
tkm/ct 28
sl no. 85

C.R.M. 10471 of 2020

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Madhyamgram P.S Case no. 419 of 2019 dated 1.10.2019 under section 21(c) of the NDPS Act
And

Allowed In Re : Ganesh Hela petitioner

Mr. A Chakraborty
..... for the petitioner

Mr. S Bardhan
Mr. P C Majhi
..... for the State

Petitioner was in detention in connection with another case at the time of recovery. He is in custody for 412 days.

Learned lawyer for the State opposes the prayer for bail and submits that recovery was made from a premises which is owned by the petitioner.

We have examined the materials on record including the seizure list. Place of seizure is an unconstructed house which is said to be owned by the petitioner. Be that as it may, it cannot be said that he was in exclusive physical possession of the premises at the time of alleged seizure.

In view of the aforesaid fact, we are of the opinion petitioner has been able to rebut the statutory restrictions under section 37 of the NDPS Act.

Under such circumstances and in view of the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner, however subject to conditions.

Accordingly, the petitioner 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 CJM, Barasat on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and on further condition that while on bail he shall remain within the jurisdiction of Madhyamgram P.S except for attending court proceeding and shall report to the concerned officer in charge of once in a week until further orders.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

The application being CRM 10471 of 2020 is disposed of.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)