

**25.03.2021**

Court No.28  
**Avijit / 122**

**CRM 1346 of 2021 (through video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Berhampore Police Station Case No.1001 of 2020 dated 06.10.2020 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act;

And

**In Re : Prasen Kundu @ Bhabol @ Bhabol Kundu @  
Prosen Kundu**

.... Petitioner

Mr. Tapodip Gupta

...for the petitioner

Mr. Sanjoy Bardhan,

Ms. Manisha Sharma

...for the State

Learned advocate appearing for the petitioner submits that petitioner is in custody since first week of December, 2020 and involved in 1 Kg of light gray colour powder being recovered but the same was recovered from one Samayun Sk. According to the learned advocate the petitioner has been implicated on the basis of a statement of a co-accused and there has been no recovery from the petitioner.

Learned advocate appearing for the State opposes the petitioner's prayer and draws the attention of this Court to the seizure list as also subsequent raid being conducted in the premises of the principal accused.

Having regard to the fact that the petitioner has been implicated on the basis of a statement of the co-accused, which is inadmissible in evidence, we are of the opinion that the petitioner has been able to overcome the rigors of section 37 of the N.D.P.S.

Act and as such he is entitled to the relief. Thus, the prayer for bail of the petitioner is allowed.

Accordingly, we direct that the petitioner, namely, **Prasen Kundu @ Bhabol @ Bhabol Kundu @ Prosen Kundu**, shall be released on bail upon furnishing a bond of 10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District Judge, 5<sup>th</sup> Court, Murshidabad and on a further condition that he shall meet with the Officer-in-Charge, Berhampore Police Station once a week until further orders.

While on bail, the petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

It is made clear that in the event the petitioner fails to comply with any of the aforesaid directions, without justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail, without any further reference to this Court.

The application for bail being C.R.M. No.1346 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Tirthankar Ghosh, J)**

**(Tapabrata Chakraborty, J)**

