

06.07.2021

(Via Video Conference)

Court No. 28
Item No. 109
Suvayan/sb

CRM 3157 of 2021

(bail - allowed)

In Re: An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 06.04.2021 in connection with Tapan Police Station Case No. 209 of 2020 dated 05.07.2020 under Sections 21(C)/22(C)/23(C)/27(A) of the Narcotic Drugs Psychotropic Substances Act, 1985.

and

In the matter of: **Sujan Barman @ Debnath @ Roy**

..... Petitioner

Ms. Jeenia Rudra, Advocate

Ms. Rupa Basak, Advocate

.....for the Petitioner

Mr. Saibal Bapuli, Ld. APP

Mr. Arijit Ganguli, Advocate

Mr. Arani Bhattarcharyya, Advocate

..... for the State

The petitioner has filed the instant application for bail in connection with Tapan Police Station Case No. 209 of 2020 dated 05.07.2020 under Sections 21(C)/22(C)/23(C)/27(A) of the Narcotic Drugs Psychotropic Substances Act, 1985.

Learned advocate for the petitioner submits that in this case no contraband had been recovered from the exclusive possession of the petitioner, but still without any recovery of the contraband, the petitioner has been languishing in custody for the last 155 days. Further detention, according to the petitioner, is unnecessary in view of the conclusion of the investigation.

Learned advocate for the State raises objection against the prayer for bail submitting that there is fair chance of abscondance in the event of the petitioner being released on bail.

Statement of co-accused is the basis of complicity as against the petitioner, but more important fact is this that there is no recovery of any

contraband from exclusive possession of petitioner. The statement of the co-accused at the moment is inadmissible in evidence.

Having considered the submissions of both sides and bearing in mind that there has been no recovery of contraband from the exclusive possession of the petitioner, we find there are sufficient reasons to take exception to Section 37 of the NDPS Act.

The prayer for bail is considered and **allowed**.

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 Special Judge, 3rd Court at Balurghat, Dakshin Dinajpur subject to condition that the said petitioner shall appear before the trial Court on every date of hearing until further order and shall not intimidate witnesses 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 pass necessary order without any reference to this Court.

The application being **CRM 3157 of 2021** accordingly **disposed of**.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)