

17.11.2021

Court No.28
Item No.59
(Allowed)
Saswata

CRM 5210 of 2021

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Domkal Police Station Case No. 623 of 2020 dated 20.10.2020 under Sections 21(c)/29 of the NDPS Act;

And

In the matter of : **Mintu Mondal @ Sk.**

...Petitioner

Mr. Mazhar Hossain Chowdhury

Mr. Md. Zeeshanuddin

...For the Petitioner

Mr. Prasun Kumar Dutta, APP

Mr. Sanjay Bardhan

Ms. Baishakhi Chatterjee

... For the State

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure in connection with Domkal Police Station Case No. 623 of 2020 under Sections 21(c)/29 of the NDPS Act.

It is submitted on behalf of the petitioner that the petitioner has been apprehended in connection with the aforesaid case without any recovery of the contraband from his exclusive or joint possession.

Learned advocate for the State opposes the prayer for bail.

It is submitted that the co accused from whom the contraband was recovered, discloses the name of the petitioner and the petitioner was apprehended solely on the basis of such statement.

After hearing respective counsels and on perusal of the materials on record, it is no doubt true that the statement made before the police officer under Section 161 of the Code of Criminal Procedure is not admissible in evidence and the disclosure so made, unless corroborated by other evidence cannot be applied against the petitioner.

There is no material found against the petitioner during the

investigation except the statement of the co accused which is not admissible at this stage.

Hence, we are of the opinion that the petitioner is entitled to be released on bail.

The prayer for bail of the petitioner is, thus, ***allowed***.

Accordingly, the petitioner is directed to be released on bail upon furnishing a Bond of ₹10,000/- (Rupees Ten Thousand only) with two sureties of like amount each, to the satisfaction of Learned Judge, Special Court under NDPS Act, Berhampore, Murshidabad subject to the condition that during bail he shall appear before the learned Trial Court regularly and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to do so without any justifiable cause, the Trial Court shall be at liberty to pass necessary order in accordance with law without any further reference to this Court.

The application for bail, being CRM 5210 of 2021, is thus **disposed of**.

(Harish Tandon, J)

(Rabindranath Samanta,J.)