

C.R.M. 6653 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Hili P.S. Case No.60 of 2021 dated 02.04.2021 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act.

In the matter of : Swapan Mali

... Petitioner

Mrs. Busra Khatun

...For the Petitioner.

Mr. Binay Panda

Ms. Pushpita Saha

.....For the State.

The petitioner is in custody for 107 days.

It is submitted that no narcotic substance was recovered from his possession.

Learned Advocate appearing for the State opposes the prayer for bail and submits that the petitioner and co accused persons were transporting narcotic substance above commercial quantity in a scooty. They fled away from the spot.

We have considered the materials on record. No narcotic substance has been recovered from the possession of the petitioner. Petitioner is not the owner of the scooty. Complicity of the petitioner had transpired from the statements of co-accused persons which are inadmissible in evidence. Hence, in view of the aforesaid facts, we are of the opinion that the petitioner has been able to rebut the restrictions under Section 37 of the N.D.P.S. Act and in view

of the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount one of whom must be local to the satisfaction of the Learned Judge, Special Court under NDPS Act, Balurghat, Dakshin Dinajpur subject to 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.

In the event, the petitioner fails to appear before the Trial Court without any 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 disposed of.

(Bivas Pattanayak,J.)

(Joymalya Bagchi, J.)