

21.12.2021  
SL No.39  
Court No.1  
AJ/SM

***Circuit Bench of Calcutta High Court  
At Jalpaiguri***

**CRM 1159 of 2021  
(Via video Conference)**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with N.D.P.S. Case No. 84 of 2021 in connection with Kotwali Police Station Case No.776 of 2021 dated 01.08.2021 under Sections 21(C)/29 of the N.D.P.S. Act, 1985.

And

In the matter of : **Majir Hossain.**

... .petitioner.

Mr. Hillol Saha Poddar.

... For the Petitioner.

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.,

Mr. Sourav Ganguly.

... For the State.

The learned Counsel for the petitioner submits that the petitioner is innocent and has been false implicated on the basis of the statement of the co-accused persons. It is further submitted that no narcotic contraband material has been recovered from the custody of the petitioner.

The learned Counsel for the State opposes the prayer for bail. However, it is submitted that the name of the petitioner transpired during the interrogation of the co-accused person who is present in custody.

Having regard to the fact that the petitioner is in custody for 139 days and there is no possibility of the trial being commenced

in near future and considering the fact that nothing was recovered from the custody of the petitioner and he was arrested on the basis of the statement of the co-accused, the petitioner is able to rebut the presumption under Section 37 of the NDPS Act and is entitled to bail.

As such, the prayer for bail of the petitioner is allowed.

Accordingly, we direct that the petitioner, **Majir Hossain** shall 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 (Special Court under the Narcotic Drugs and Psychotropic Substances Act, 1985) cum Additional Session Judge, 1<sup>st</sup> Court, Cooch Behar subject to the condition that the petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall stay outside the jurisdiction of Kotwali Police Station and shall not enter the said jurisdiction except for meeting the Investigating Officer and/or attending the Court proceeding and shall meet the Investigating Officer once a week until further orders and with a further condition that the petitioner shall comply with the provision of Section 437(3) of the Code of Criminal Procedure. We also direct the trial Court to expedite the trial and conclude it as expeditiously as possible.

The application for bail, being CRM No.1159 of 2021 is, thus, disposed of.

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

**(Biswajit Basu, J.)**

**(Soumen Sen, J.)**