

66 28.01.2022
AD Ct. No.29
(Allowed)

C.R.M. (NDPS) 52 of 2022

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Chakdah** P.S. Case No. **128 of 2021** dated **23/03/2021** under Sections **20(b)(ii)(c)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Kamal Sarkar

....petitioner.

Mr. Shibaji Kumar Das

...for the petitioner.

Mr. Sanjoy Bardhan

Ms. Baishakhi Chatterjee

...for the State.

Petitioner seeks bail.

Learned Advocate appearing for the petitioner submits that the petitioner was falsely implicated on the basis of the statements of the co-accused while in custody. Such co-accused were granted bail. The police submitted charge sheet and, therefore, further detention of the petitioner is not required.

Learned Advocate appearing for the State submits that although the coordinate Bench granted bail to the co-accused, the prayer for anticipatory bail of the petitioner was rejected. He submits that the petitioner is the driver of the vehicle which unloaded the commercial quantity of narcotics at the vacant spot and the other two co-accused identified the vacant spot whereupon the seizure was made. The other two accused signed the seizure list.

Considering the fact that the co-accused were granted bail and considering the fact that no narcotics was seized from the possession of the petitioner and considering the fact that the petitioner is sought to be proceeded against on the basis of the

statement of the co-accused while in custody and considering the fact that the police submitted charge sheet, we are of the view that the petitioner is able to rebut the presumptions under Section 37 of the NDPS Act, 1985. Consequently, we grant bail to the petitioner.

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 Judge, Special Court under NDPS Act, Nadia at Krishnagar subject to the condition that during bail he shall appear before the learned trial court on the date fixed till disposal of the trial and he shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with the conditions as enshrined hereinbefore, it is open to the trial court to cancel the bail without any further reference to this Court.

The application for bail being **C.R.M. (NDPS) 52 of 2022** is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)