

08.02.2022

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Ct. No. 29

**KAUSHIK**

Allowed

**C.R.M.(NDPS) 70 of 2022**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Malda** Police Station Case No. **556** of **2021** dated **12.11.2021** under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic substances Act read with Section 18(b)/27 of the Drugs and Cosmetics Act.

And

In Re : Swapan Dutta @ Panchu

..... petitioner

Mr. Jayanta Narayan Chatterjee

Ms. B. Khatun

.....for the petitioner

Mr. Ranadeb Sengupta

....for the State

The petition is taken up for consideration subsequent to the order dated February 3, 2022.

In terms of the observations made by the Court, learned advocate appearing for the State submits the report which be taken on record.

It appears from such report that the police, at this stage, are unable to establish any nexus between the petitioner and the co-accused, who was arrested with the commercial quantity of narcotics.

Learned advocate appearing for the petitioner submits that, the petitioner is using the mobile phone bearing number 9800291835 and that SIM card in respect of such mobile phone was purchased at least four years ago.

Considering the fact that the petitioner is sought to be proceeded against on the basis of the statement of the co-accused made while in custody and considering the fact that no narcotic was seized from the possession of the petitioner and considering the period of detention of the petitioner, we are of the view that the petitioner is able to rebut the presumptions under Section 37 of the NDPS Act, 1985. We grant bail to the petitioner.

Accordingly, we direct that the petitioner 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, 3<sup>rd</sup> Court under NDPS Act, Malda**, 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.

The application for bail is, accordingly, allowed.

**(Debangsu Basak, J.)**

**(Bibhas Ranjan De, J.)**