

CRM (NDPS) 243 of 2022

In re : An Application for bail under Section 439 of the Code of Criminal Procedure filed on 23.02.2022 in connection with Balurghat Police Station Case No. 491 of 2020 dated 09.12.2020 under Sections 411/414/188/224 of the Indian Penal read with Sections 21(C)/22(C)/23(C)/25/27A/28/29 of the NDPS Act and Sections 11(1)(d)/(e)/(f) of the Prevention of Cruelty of the Animals Act.

-And-

In the matter of : **Prakash Barman**

Ms. Busra Khatun, Advocate

... ..Petitioner

Mr. Binay Panda, Advocate

Ms. Puspita Saha, Advocate

... .. For the State

Petitioner seeks bail.

Learned Advocate appearing for the petitioner submits that the petitioner is in custody for 56 days. No recovery was made from the possession of the petitioner. The petitioner is sought to be falsely implicated on the basis of the statement of the co-accused made while in custody.

Learned Advocate appearing for the State submits that the petitioner along with co-accused were initially detained by the Boarder Security force personnel. The Boarder Security force personnel informed the police. During the period of detention and before the police arrived, the petitioner on the plea of going to the toilet fled away from the spot. He refers to the statement of the BSF personnel recorded under Section 161 of the Code of Criminal Procedure in such aspect. He submits that the police seized commercial quantity of narcotic from the co-accused.

Considering the fact that the petitioner was initially detained along with other co-accused by the BSF personnel together with the commercial quantity of narcotics and considering the fact that the petitioner managed to flee away

before the police could arrest the petitioner along with other co-accused and made a seizure list with the petitioner being named therein and considering the fact that the police seized commercial quantity of narcotics from the co-accused, we are of the view that the petitioner is unable to overcome the restrictions under Section 37 of the NDPS Act, 1985. Consequently, we are unable to grant bail to the petitioner.

CRM (NDPS) 243 of 2022 is rejected.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)