

07.04.2022

Serial no. 30

[Dd]

(Bail **allowed**)

CRM (NDPS) 353 of 2022

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure in connection with **Kumarganj** Police Station Case No. **212** of **2017** dated **02.11.2017** under Sections **21/22/23** of the Narcotic Drugs and Psychotropic Substances Act (corresponding Special Case No. **61** of **2017**)

-And-

In the matter of : Unush Mondal @ Eunus Ali Mondal

... .. Petitioner

Mr. Kaushik Chowdhury,

Ms. Busra Khatun, Advocates

... .. For the Petitioner

Mr. Saibal Bapuli, Id. APP

Mr. Bibaswan Bhattacharya, Advocates

... ..For the State

Petitioner seeks bail.

Learned advocate appearing for the petitioner submits that the petitioner is in custody for 44 days. No recovery was made from the possession of the petitioner. Petitioner stands on the same footing as that of Bipul Barman who was granted anticipatory bail on March 21, 2022 in CRM(A) 758 of 2022.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary.

Considering the fact that no narcotic was recovered 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 made while in custody and considering the fact that police filed charge sheet and considering the fact that at this stage the police are unable to establish a nexus between the petitioner and

the co-accused who was arrested with commercial quantity of narcotic, we are of the view that the petitioner is able to rebut the presumption under Section 37 of the NDPS Act, 1985.

Consequently, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand only), 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, Balurghat, Dakshin Dinajpur** subject to condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/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 the bail of the petitioner in accordance with law without further reference to this Court.

The prayer for bail of the petitioner is **allowed**.

CRM (NDPS) 353 of 2022 is **disposed of**.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)