

C.R.M. (NDPS) 381 of 2022

18.04.2022
Sl. 40
Court No.29
(sourav)
(Allowed)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **Jagacha** Police Station Case No. **324** of **2021** dated **01.12.2021** under Sections **21(c)** of the Narcotic Drugs and Psychotropic Substance Act, 1985.

And

In the matter of: **Swarnadip Roy Chowdhury @ Tatai**
....petitioner.

Mr. Mrityunjoy Chatterjee
...for the petitioner.

Mr. Sudip Ghosh
Mr. Apurba Kumar Datta
... for the State.

Petitioner prays for bail.

Learned advocate appearing for the petitioner submits that the petitioner was falsely implicated. The petitioner was taken into custody in a different police case relating to the Arms Act. It is alleged that the petitioner made a confessional statement whereupon the purported recovery was made. The purported recovery was from an abandoned house and without any independent witnesses.

Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that there are several criminal antecedents so far as the petitioner is concerned.

The petitioner was taken into custody in respect of a case under the Arms Act where the petitioner allegedly made a confessional statement leading to the recovery. The seizure list shows that the recovery was made from an abandoned house. The seizure list does not disclose presence of any independent witnesses. The seizure was made on December 1, 2021 between 00.45 hours and 01.35 hours.

No independent witness was present at the locale at the time of the seizure.

Considering the fact that the seizure was made from an abandoned house over which the police are unable to show that the petitioner was in control and considering the fact that there was no independent witness present at the time of seizure, we are of the view that the petitioner is able to overcome the restrictions 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, Howrah, subject to the condition that during bail he shall appear before the learned trial court on every date of hearing and shall not intimidate witnesses and/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) 381 of 2022** is, thus, disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

