

26.05.2022
Court No.05
Item No. 20
D.C/AM

C.R.M. (NDPS) No.537 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with NDPS Case No.10 of 2022 arising out of Hirapur Police Station Case No.130 of 2021 dated 11.06.2021 under Sections 22(b)(II)(B)/29 of the N.D.P.S. Act;

And

In Re : Rafikul Islam @ Hablu

Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Debapriya Majumder

For the Petitioner

Mr. Benoy Panda,
Mr. Palash Chandra Majhi

For the State

Learned counsel for the petitioner contends that, merely on the statement of the co-accused persons, the petitioner was apprehended on charges under the N.D.P.S. Act. As such, it is submitted, the presumption under Section 37 of the said Act is not applicable in so far as the petitioner is concerned.

It is contended by learned counsel for the State that the petitioner is only in custody for about a month and that the petitioner was named in a statement under Section 161 of the Code of Criminal Procedure.

It is further contended that, in the event the petitioner is enlarged on bail, the investigation of the matter may be hampered.

Upon hearing learned counsel for the parties, we are of the opinion that the rigours of Section 37 of the N.D.P.S. Act cannot be attracted as of present, in so far as the petitioner is concerned,

since the mere statement of a co-accused is inadmissible in evidence.

That apart, since there is nothing incriminating against the petitioner in so far as the offences under the N.D.P.S. Act are concerned, we are inclined to grant bail to the petitioner.

Accordingly, CRM (NDPS) 537 of 2022 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes 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), 3rd Court, Malda.

Moreover, the petitioner shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts to any police officer or the Court and/or tamper with evidence in any manner whatsoever.

The petitioner, furthermore, shall make himself available for further interrogation/investigation in the event so sought by the Investigating Officer.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)

