

07.07.2022
cm/ct 28
sl no. 11

C.R.M. (NDPS) No. 751 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Jagacha P.S Case No. 194 of 2020** dated **29.09.2020** under Sections **21 (c)** of the Narcotic Drugs and Psychotropic Substances Act.

And

Allowed

In Re : Dinesh Karmakar

..... petitioner

Mr. Sandip Chakraborty
Mr. Ashok Das
Ms. Ayana Dey

..... for the petitioner

Mr. Saibal Bapuli, Ld. A.P.P.
Mr. Bibaswan Bhattacharyya

..... for the State

Petitioner is in custody for more than nine months. It is submitted that he was in custody in connection with a case relating to theft when the alleged recovery of narcotics was made. Petitioner did not have control or dominion over the site where alleged recovery was made. He has been falsely implicated in the present case.

Learned lawyer for the State opposes the prayer for bail. He submits on the leading statement of the petitioner narcotic substance above commercial quantity i.e. 2 litre of codine mixture was recovered.

We have considered the materials on record. Petitioner was in custody in connection with a case relating to theft. Nothing has been placed on record to show petitioner had control and dominion over the place from where alleged recovery was made. Such recovery has not been witnessed by independent persons.

Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under section 37 of the NDPS Act and he may be enlarged on bail subject to conditions.

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 condition that while on bail he shall remain within the jurisdiction of Jagacha police station except for the purposes of attending court proceeding and he shall report to the officer-in-charge of Jagacha police station once in a month or until further orders and he shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM(NDPS) No. 751 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)