

27.01.2022

102

Ct. No. 29

KAUSHIK

Allowed

C.R.M. 8699 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Kaliachak** Police Station Case No. **542** of **2020** dated **10.07.2020** under Sections 21(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In Re : Hasimuddin Sk. @ Hasu

..... petitioner

Mr. Sujoy Sarkar

.....for the petitioner

Mr. Sanjoy Bardhan

Mr. Palash Chandra Majhi

....for the State

Petition is taken up for consideration pursuant to the order dated January 3, 2022.

A report was called for with the regard to the ownership of the motor cycle.

Report submitted in Court be taken on record.

The report states that the police are yet to find out the owner of the motor cycle.

The petitioner is sought to be proceeded against on the basis of a statement of a co-accused in custody. No narcotic was recovered from the possession of the petitioner. At this stage, the prosecution is unable to place any material establishing nexus between the petitioner and the co-accused.

In such circumstances, we are of the view that the petitioner is able to rebut the presumption under the provisions

of Section 37 of the NDPS Act, 1985. Consequently, we grant bail to the petitioner.

Accordingly, we direct that the petitioner shall 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 Special Judge, 3rd Court under NDPS Act, Malda**, subject to the condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)