

28.09.2022
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allowed

CRM(NDPS) No. 1100 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Islampur Police Station Case No. 353 of 2016 dated 08.10.2016 under Sections 20(c)/29 of the NDPS Act.

And

In Re : Saidul Sk. @ Saidul Molla petitioner

Mr. Soumyajit Das Mahapatra
.....for the petitioner

Mr. Saryati Datta
..... for the State

Learned Counsel appearing for the petitioner submits he is in custody for eight months. It is also submitted that no narcotic substance was recovered from his possession.

Learned Counsel appearing for the State opposes prayer for bail and submits petitioner had absconded for a protracted period of time.

We have considered materials on record. No narcotic substance was recovered from the possession of the petitioner. His complicity has transpired from the statements of co-accuseds before police officer which are inadmissible in evidence.

Under such circumstances, we are of the opinion that petitioner has been able to rebut the statutory presumption under Section 37 of the NDPS Act and he may be granted bail.

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 Judge, Special Court under NDPS Act, Berhampore, Murshidabad, subject to 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.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)