

30.09.2022

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Allowed

C.R.M. (NDPS) No. 1165 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhantala Police Station Case No. 133 of 2022 dated 16.03.2022 under Section 21(c) of the NDPS Act.

And

In Re : Akash Das petitioner

Mr. Prabir Majumder

.....for the petitioner

Mr. Ranadeb Sengupta

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for 199 days. It is also submitted that he has been falsely implicated in one case after another. Allegation of recovery of narcotic substance by the police agency ought not to be believed.

Learned Counsel appearing for the State opposes prayer for bail and submits recovery of narcotic substance above commercial quantity was made from the possession of the petitioner.

We have considered the materials on record. Recovery from the petitioner is not supported by independent witnesses. Ordinarily we would have considered the bail prayer of the petitioner. Such issue as statements of the official witnesses ought not to be discarded merely because they are the police officers. However, in the present case petitioner has demonstrated that he was falsely implicated by the investigating

agency in a Case No. 594 of 2021 dated 20.12.2021 under Sections 399/402 of the Indian Penal Code while he was in custody. This shows a mala fide attitude of the selfsame investigating agency and their desperate effort to implicate the petitioner and commit him to custody.

Under such circumstances we are of the opinion mere statements of the selfsame police officers, without anything more, do not inspire confidence and the petitioner, in the peculiar facts of the case, has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. In the light of the aforesaid discussion, we are inclined in granting bail to the petitioner, however, subject to strict conditions.

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, Nadia, Krishnanagar, 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 and on further conditions that while on bail petitioner shall remain with the jurisdiction of Dhantala Police Station except for the purpose of attending court proceedings and shall provide the address where he shall presently reside to the investigating agency and court below and shall report to the officer-in-charge of the concerned police station within whose

jurisdiction he shall presently reside once in a week until further orders.

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.)