

29.11.2022

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Allowed

C.R.M. (NDPS) No. 1401 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Gangarampur Police Station Case No. 18 of 2021 dated 12.01.2021 under Sections 22(c)/23(c)/27A/28/29 of the N.D.P.S. Act.

And

In Re : Esrafil @ Israfil Ali petitioner

Mr. Koushik Choudhury

Ms. Busra Khatoon

.....for the petitioner

Mr. Ranabir Roychowdhury

Mr. Mainak Gupta

.....for the State

Learned Counsel appearing for the petitioner submits no narcotic substance was recovered from the possession of the petitioner. Investigation is complete. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail.

We have considered the materials on record. No narcotic substance has been 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. Hence, we are of the opinion 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, Dakshin Dinajpur at Balurghat, subject to conditions that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without any 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.)