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Allowed

C.R.M. (NDPS) No. 1417 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hasnabad Police Station Case No. 649 of 2021 dated 30.10.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Selim Gazi @ Salim Gazi petitioner

Mr. Moyukh Mukherjee

Mr. Abhijit Singh

Ms. Aishwarya Bazaz

.....for the petitioner

Mr. Sanjoy Bardhan

Mr. Palash Chandra Majhi

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for 178 days. It is also submitted that no narcotic substance was recovered from his possession. Investigation is complete. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits petitioner had telephonic communications with the principal accused from whom narcotic substance was recovered.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. In the course of investigation no incriminating material in the form of money trail etc. was traced to corroborate the prosecution case. Apart from telephonic conversations relied upon by the prosecution (contents whereof are unknown) there

is no other legally admissible material to implicate the petitioner in the crime.

Under such circumstances, 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, North 24-Pargans at Barasat, 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.)