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Allowed

C.R.M. (NDPS) No. 1418 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hili Police Station Case No. 170 of 2021 dated 06.08.2021 under Sections 21(c)/22(c)/23(c)/27A of the N.D.P.S. Act.

And

In Re : Madan Mohan Sarkar @ Madan Sarkar..... petitioner

Ms. Busra Khatun

.....for the petitioner

Mr. Saryati Datta

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for 72 days. It is also submitted that he is in no way connected with the alleged offence. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits petitioner is the father of the principal accused. Witnesses stated he is the owner of the electric scooty which was used for the purpose of transportation of narcotics.

We have considered the materials on record. No document with regard to ownership of the motor cycle is placed before us. Principal accused is on statutory bail.

In view of reliance on oral statements regarding ownership of the vehicle dehors the best evidence i.e. registration certificate, we are of the opinion petitioner has made out a case of rebuttal of Section 37 of the NDPS Act.

In view of the aforesaid circumstances and the extent of complicity of the petitioner in the alleged offence, we are inclined to grant bail to him.

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.)