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Allowed

C.R.M. (NDPS) No. 1423 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Krishnaganj Police Station Case No. 184 of 2022 dated 27.05.2022 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Bhim Dutta petitioner

Mr. Sandip Chakraborty

Mr. Balaram Datta

Mr. Kaustav Das

.....for the petitioner

Mr. Ranabir Roychowdhury

Mr. Mainak Gupta

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for six months. It is also submitted that the petitioner has been falsely implicated in the instant case. Recovery was made from the residence of one Prakash Karmakar. He is not a tenant of the said person.

Learned Counsel appearing for the State opposes the prayer for bail. He submits on the showing of the petitioner narcotics was recovered from the house of Prokash Karmakar. Prakash Karmakar stated petitioner is his tenant.

We have considered the materials on record. Case was initiated on the basis of recovery of narcotic substance from co-accused, Sandip Halder. Pursuant to his statement petitioner was arrested. While in police custody it is alleged 50 bottles of phensedyl syrup was recovered on the showing of the petitioner

from the roof of the house of one Prakash Karmakar. We have also examined the statements of the petitioner recorded during investigation. None of the statements qualify as a disclosure statement leading to recovery. Statement at page no. 217 is post-recovery and would not be relevant under Section 27 of the Evidence Act. Further recovery is not witnessed by any independent witness. No recent receipt of other documentary evidence has been produced in support of the claim of tenancy.

In view of the aforesaid facts, we are of the opinion the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and 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, Nadia at Krishnanagar, 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.)

