

28.02.2022
Court No.01
Item No. 15
Saswata
(allowed)

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**CRM (NDPS) 11 of 2022
(Via Video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with New Cooch Behar GRPS Case No. 17 of 2021 dated 15.11.2021 under Section 20(b) (ii) (B) of the NDPS Act.

And

In Re: **Bhavesh Kumar**

Petitioner

Mr. Sabir Ahmed
Mr. Hillol Saha Podder
Mr. Sayantan Bhowmick
Ms. Mousumi Das

For the Petitioner

Mr. Arun Kumar Sarkar
Mr. Sourav Ganguly

For the State

This is an application for bail at the behest of the petitioner who is seeking bail in connection with the aforementioned case. It is submitted that the alleged recovery of the contraband (*ganja*) from the petitioner is below the commercial quantity, yet the application for bail was rejected by the Special Court. It appears from the order dated 01/12/2021 by the Special Judge that the prayer for bail was rejected as investigation was at the initial stage. The charge sheet has already been submitted. Furthermore, the alleged contraband below commercial quantity is shown to have been recovered from the exclusive possession of the petitioner and therefore, the bar under Section 37 of the NDPS Act is not attracted.

Learned advocate for the State vociferously opposes the prayer for bail and submits that the contraband was recovered from the possession of the petitioner.

Since, the investigation is complete and charge sheet has been submitted, we do not find any further custodial interrogation of the petitioner is necessary, nor we find that further custody of the petitioner is warranted.

Accordingly, the prayer for bail is *allowed*.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand only), 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, Cooch Behar on condition that the petitioner shall not leave the jurisdiction of the concerned Court and on further condition that the petitioner shall appear before the trial Court on every date of hearing until further order and shall not intimidate and / or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to comply with any of the conditions mentioned hereinbefore, it would be open to the trial court to cancel the bail without any further reference to this Court.

Accordingly, the application for bail being CRM (NDPS) 11 of 2022 is disposed of.

(Harish Tandon, J)

(Rabindranath Samanta, J)