

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
(Through Video Conference)**

25.07.2022
cm/ct 28
sl no. 5

C.R.M. (NDPS) No. 232 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Bhaktinagar P.S Case No. 275 of 2022** dated **12.03.2022** under Sections **21(c)/22(c)** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

Allowed

In Re : Netai Mohanta.

..... petitioner

Mr. Sayan De
Ms. Esha Acharya
Mr. Sayan Kanjilal
Mr. Kaustav Shome

..... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. A.P.P.
Mr. Nilay Chakraborty

..... for the State

Petitioner is in custody for 53 days. It is contended no narcotic substance was recovered from the possession of the petitioner.

Learned lawyer for the State opposes the prayer for bail. He submits that complicity of the petitioner has transpired from the statement of co-accused. Both of them were carrying narcotic cough syrup containing codeine phosphate which is above commercial quantity.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. He was also not arrested at the spot. Plea of the prosecution that he fled from the sport is solely based on statement of co-accused before police officer which is inadmissible in evidence.

In view of the aforesaid circumstances, we are of the opinion that petitioner has been able to rebut statutory restrictions under section 37 of the NDPS Act and he may be released on bail.

Accordingly, the petitioner 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, Jalpaiguri on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM(NDPS) No. 232 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)