

08.02.2023

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Allowed

C.R.M. (NDPS) No. 209 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Murshidabad Police Station Case No. 355 of 2021 dated 13.08.2021 under Sections 21(c)/29 of the N.D.P.S. Act.

And

In Re : Biswajit Mondal @ Biswajit Mandal petitioner

Mr. Arnab Chatterjee

Mr. Anisur Rahaman

.....for the petitioner

Mr. Swapan Banerjee

Mr. Suman De

.....for the State

Learned Counsel for the petitioner submits he is in custody for one year and four months. No narcotics was recovered from his possession. Co-accuseds have been granted pre-arrest bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits petitioner has criminal antecedents.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. Apart from statement of the co-accuseds before police officer which is inadmissible in evidence there is no material implicating the petitioner in the crime. Under such circumstances, we are of the opinion petitioner has been able to

rebut the statutory restrictions 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, Murshidabad, 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.)