

08.02.2023.
20.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 223 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.39 of 2021 arising out of Raiganj P. S. Case No.541 of 2021 dated 09.07.2021 under Sections 20(b)(ii)(c) of the NDPS Act.

In the matter of : Madan Sarkar.

.... Petitioner.

Mr. S. Das Mahapatra,
Mr. Tapodip Gupta,
Ms. Madhuri Sinha.

...for the Petitioner.

Mr. T. D. Nandy,
Mr. Antarikhya Basu.

...for the State.

Petitioner is in custody for one year and five months. He submits there is no legally admissible evidence connecting him with the crime. He prays for bail.

Learned Advocate for the State opposes the bail prayer. He submits on source information it transpired that the petitioner was transporting ganja in a truck bearing registration No.WB 33B9728 and was intercepted. 303 kgs. of ganja was being transported in a surreptitious manner. Accordingly, petitioner was arrested.

We have considered the materials on record. Name of the petitioner is said to have transpired from source information. Source information may be the starting point of investigation but would not constitute legally admissible evidence if the identity of the source is not disclosed and the said person is not examined during investigation. Investigation in the case

leaves much to be desired. Though a large quantity of narcotics was recovered from a vehicle bearing registration No. WB 33B9728, owner of the vehicle had not been interrogated.

In view of the aforesaid scanty materials on record and the indifferent investigation, 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 enlarged on bail.

Accordingly, the petitioner viz., Madan Sarkar 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 the NDPS Act, Uttar Dinajpur at Raiganj subject to condition 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 the petitioner 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.

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)