

23.02.2023.  
08.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (NDPS) 280 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.43 of 2022 arising out of Khardah P. S. Case No.294 of 2022 dated 20.04.2022 under Sections 21(c) of the NDPS Act.

In the matter of : Rahul Mahato.

.... Petitioner.

Mr. Anit Dey.

...for the Petitioner.

Mr. Arijit Ganguly,  
Mr. Sanjib Kr. Dan.

...for the State.

Supplementary affidavit filed in Court today be kept on record.

Petitioner submits the extension of period of detention under proviso to Section 36(A)(4) of the NDPS Act was illegal. No order extending the period is appearing from the records of the case. Hence, he prays for statutory bail.

Learned Advocate for the State opposes the bail prayer and produces the Case Diary.

We have considered the materials on record. An endorsement is present bearing seal of the Court on the body of an application praying for extension of period of detention. Endorsement on a document which is a part of the case diary cannot be a substitute for a judicial order. Moreover, petitioner was not present at the time when the so called order had been passed.

Under such circumstances, we are constrained to hold there is no valid extension of period of detention in terms of proviso to Section 36(A)(4) of the NDPS Act and the petitioner is entitled to statutory bail.

Accordingly, the petitioner viz., Rahul Mahato 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 N.D.P.S. Act, Barrackpore, North 24-Paraganas 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.)**