

24.03.2023
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allowed

CRM (NDPS) No. 492 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Balurghat Police Station Case No. 283 of 2019 dated 08.05.2019 under Sections 21(c)/22(c)/23(c)/27A/28/29 of the NDPS Act and charge-sheet submitted under Sections 21(c)/22(c)/23(c)/27A/28/29 of the NDPS Act.

And

In Re : Bidhan Sarkar petitioner

Mr. Kaushik Choudhury
.....for the petitioner

Mr. Saryati Datta
..... for the State

Learned Counsel for the petitioner submits he is in custody for 70 days. Investigation is complete. No narcotics was recovered from his possession. Co-accused is on bail. Accordingly, he prays for bail.

Learned Counsel for the State opposes the prayer for bail.

We have considered the materials on record. No narcotics was recovered from the petitioner. His complicity has transpired from the statement of the co-accused before the police officer which is inadmissible in evidence. Co-accused is on bail. 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 may be enlarged on 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-cum-Additional District & Sessions Judge, 3rd Court, Balurghat, Dakshin Dinajpur, subject to the condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

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

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)