

24.04.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 514 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 14.03.2023 in connection with South Port Police Station Case No.185 of 2022 dated 10.12.2022 under Sections 20(b)(ii)(c)/29/35 of the NDPS Act. (NDPS Case No.45 of 2022)

And

In Re: ***Rajesh Das @ Bagwa***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha
Md. Zahid Abedin

... .. for the petitioner

Mr. Sanjay Bardhan
Ms Debjani Dasgupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 123 days. It is further submitted petitioner has been falsely implicated in the instant case. Recovery was made from an abandoned quarter which is accessible to all. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits 22 kgs. of *Ganja* was recovered from co-accused. Pursuant to their statement, petitioner was arrested. On his leading statement, 8 kgs. of *Ganja* was recovered in presence of independent witnesses.

We have considered the materials on record. Initially no narcotics was recovered from the petitioner. Subsequent recovery is also from an abandoned place which is accessible to all. Conscious possession of narcotics by the petitioner requires to be assessed in the backdrop of the aforesaid circumstances during trial. A prima facie defence which rebuts the statutory restrictions under Section 37 of the NDPS Act has been made out. Under such circumstances and in view

of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Rajesh Das @ Bagwa**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan Magistrate, Calcutta subject to condition that the said petitioner 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 or commit similar offences in future.

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 automatically without reference to this court.

The application for bail, thus, stands allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)