

CRM(NDPS) No. 880 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Goalpokher Police Station Case No. 286 of 2020 dated 19.09.2020 under Sections 21(c)/29 of the NDPS Act.

In Re : Bhajan Ghosh

And
..... petitioner

Mr. Koushik Choudhury
Ms. Busra Khaun
....for the petitioner

Mr. Saryati Datta
.... for the State

Learned Counsel for the petitioner submits he is in custody for 263 days. It is also contended that he is no way connected with the vehicle used to transport narcotics. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits vehicle was owned by one Arif who had sold it to one Sahil, a co-accused. Sahil, in turn, transferred the vehicle to the petitioner.

We have considered the materials on record. Sale deed showing transfer of the vehicle from Arif to Sahil has been seized. However, no documentary proof with regard to vehicle showing transfer from Sahil to the petitioner is placed on record. In view of the snap in the chain of ownership of the vehicle in question, we are of the opinion petitioner has been able to make out a prima facie defence which rebuts the statutory restrictions under Section 37 of the NDPS Act. Accordingly, he 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 (NDPS Act) , Raiganj, Uttar Dinajpur, subject to conditions that 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 in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)