

02.05.2023
Sl. No.21
akd
[ALLOWED]

C. R. M. (NDPS) 917 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.04.2023 in connection with Hili Police Station Case No.216 of 2022 dated 18.09.2022 under Sections 20(b)(2)/21(c)//22(c)/23(c)/27A of the NDPS Act.

And

In Re: **Swapan Mahato @ Swapan Das**

... .. Petitioner

Mr. Kaushik Choudhury
Ms. Busra Khatoon

... .. for the petitioner

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Dipankar Paramanick

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for over 40 days. It is further submitted no narcotics was recovered from his possession. Accordingly, he prays for bail.

Learned Additional Public Prosecutor opposes the prayer for bail.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. In view of the aforesaid fact and 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 **Swapan Mahato @ Swapan Das**, 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 Judge, Special Court, under the NDPS Act-cum-Additional District Judge, 3rd Court, Balurghat, Dakshin Dinajpur 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.)