

19.05.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 1022 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.05.2023 in connection with Balurghat Police Station Case No.228 of 2019 dated 08.04.2019 under Sections 20(1)/22(c)/23(c)/27A/28 of the NDPS Act.

And

In Re: **Sagar Mahanta**

... .. Petitioner

Mr. Sayan De
Mr. Sayan Kanjilal

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Bibaswan Bhattacharya

... .. for the State

It is submitted on behalf of the petitioner that no narcotics was recovered from his possession. Accordingly, he prays for bail.

Learned Advocate for the State 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, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.

Therefore, the accused/petitioner, namely **Sagar Mahanta**, 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-3rd Additional District & Sessions Judge,

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 and on further condition that the petitioner, while on bail, shall meet the Officer-in-charge, Balurghat Police Station once in a week until further orders.

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.)