

14.07.2023

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Allowed

C.R.M. (NDPS) No. 1263 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Patiram Police Station Case No. 186 of 2022 dated 23.09.2022 under Sections 21(c)/22(c)/23(c)/27A of the N.D.P.S. Act.

And

In Re : Utpal Barman petitioner

Mr. Partha Pratim Das

Mrs. Roma Roy

.....for the petitioner

Mr. Rudradipta Nandy, learned APP

Ms. Sonali Das

.....for the State

Learned Counsel for the petitioner submits he is in custody for 106 days. It is also submitted that no narcotics was recovered from his possession. He prays for bail.

Learned Counsel for the State opposes the prayer for bail and submits petitioner and co-accused were transporting narcotics. He fled away from the spot.

We have considered the materials on record. Petitioner had not been apprehended at the spot. Though witnesses state some persons ran away from the spot their identities have come out from the statement of co-accused before the police officer which are inadmissible in evidence.

In view of the aforesaid circumstances and as there is no further development in the matter yielding legally admissible evidence against the petitioner, we are of the opinion petitioner

has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and he may be granted 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 Special Judge (under NDPS Act)-cum-Additional District and Sessions Judge, 3rd court, Dakshin Dinajpur at Balurghat, subject to conditions that he 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.

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 in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)