

CRM(NDPS) No. 1364 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Suti Police Station Case No. 03 of 2020 dated 02.01.2020 under Sections 21(c)/29 of the NDPS Act.

In Re : Fitu Mahaldar

Mr. Arnab Chatterjee
Mr. Anisur Rahaman
Ms. Dhanasree Biswas
Ms. Poulami Bose
.....for the petitioner

Mr. Saibal Bapuli, learned APP
Mr. Bibaswan Bhattacharya
.... for the State

1. Learned Counsel for the petitioner submits in all cases except one no narcotics was recovered from his possession. He has been falsely implicated. It is also submitted that he has been acquitted in the case where it is alleged narcotics was recovered from his residence. He prays for bail.

2. Learned Counsel for the State submits report and contends that in a large number of cases involvement of the petitioner has transpired with regard to transportation of narcotics. He admits the case involving recovery from the residence of the petitioner has ended in acquittal.

3. We have considered the materials on record. Though a number of cases were registered against the petitioner in all of them except one no narcotics has been recovered from him. It appears the case in which it is alleged narcotics was recovered

from his residence has resulted in acquittal. Complicity of the petitioner in the present case is based on statement of the co-accused before police officer which is inadmissible in nature. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be enlarged on bail, however, subject to conditions.

4. 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 under NDPS Act, Berhampore, Murshidabad, on further condition that while on bail petitioner shall remain within the jurisdiction of Suti Police Station except for the purposes of investigation and /or attending court proceeding and shall meet the Officer-in-Charge, Suti Police Station once in a week until further orders. 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.

5. 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.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

