

05.09.2023.  
09.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (NDPS) 1482 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.195 of 2022 arising out of Jalangi P.S. Case No.276 of 2022 dated 01.09.2022 under Sections 20(b)(ii)(C)/29 of the NDPS Act.

In the matter of : Jillar Rahaman @ Jillar Mondal @ Jila.  
.... Petitioner.

Mr. Arnab Chatterjee,  
Ms. Dhanasree Biswas,  
Ms. Poulami Bose.

...for the Petitioner.

Mr. Ranadeb Sengupta.

...for the State.

1. Petitioner submits no narcotics was recovered from his possession. On an erroneous assumption to the contrary, his bail was rejected in March, 2023. He prays for bail.
2. Learned Advocate for the State admits no recovery was made from the petitioner but he submits there were telephonic exchanges between petitioner and co-accused and he has criminal antecedents.
3. We have considered the materials on record. In March, 2023, bail prayer of the petitioner was rejected on an erroneous finding that narcotics had been recovered from his possession. Learned Advocate for the State admits that the materials on record do not support such finding.
4. In view of the aforesaid circumstance which impinges on the liberty of an individual, we have chosen to reconsider the bail application on merits.

5. Having examined the materials collected, we note petitioner was not arrested from the place of occurrence and was subsequently shown arrested during investigation. No narcotics had been recovered from his possession in the case. Mere telephonic exchanges between petitioner and co-accused without anything more would not create a *prima facie* inference of conspiracy particularly when the contents of such conversation are unknown.

6. Hence, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail subject to conditions.

7. Accordingly, the petitioner viz., Jillar Rahaman @ Jillar Mondal @ Jila 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 the N.D.P.S. Act, Murshidabad at Berhampore subject to condition 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 and on further condition petitioner while on bail shall meet the Investigating Officer once in a week until further orders.

8. In the event the petitioner 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.

9. This application for bail is, thus, disposed of.

**(Gaurang Kanth,J.)**

**(Joymalya Bagchi, J.)**