

28.11.2023.  
03.  
Ct.No.28.  
as  
(Allowed)

**C.R.M. (NDPS) 1579 of 2023**

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.41 of 2023 arising out of Hogalberia P.S. Case No.96 of 2023 dated 01.05.2023 under Sections 353/186/188/189 of the Indian Penal Code and Sections 20/21/23/29 of the NDPS Act and Section 14(A) of the Foreigners Act.

In the matter of : **Akbar Biswas.**

.... Petitioner.

Mr. Sumanta Das.

...for the Petitioner.

Mr. Sanjoy Bardhan,  
Mr. Palash Ch. Majhi.

...for the State.

1. Petitioner is in custody for 195 days. He contends no narcotics was recovered from his possession. He prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He contends petitioner is a habitual dealer in narcotics. He has criminal antecedents. Statements of witnesses including wife of co-accused Tapan Mondal implicated the petitioner in storing narcotics at the residence of the latter.
3. We have considered the materials on record. Statements of witnesses including that of the wife are general and omnibus. They do not relate to the alleged transaction which is the subject matter of investigation. No recovery was made from the possession of the petitioner.
4. In view of the scanty evidence on record, we are of the opinion 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 strict conditions.

5. Accordingly, the petitioner viz., **Akbar Biswas** 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, Krishnagar at Nadia 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 that the petitioner while on bail shall remain within the jurisdiction of Hogalberia Police Station except for the purpose of attending court proceeding and report to the Officer-in-charge, Hogalberia Police Station once in a week until further orders.

6. 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.

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

**(Gaurang Kanth,J.)**

**(Joymalya Bagchi, J.)**