

CRM(NDPS) No. 1647 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. 65 of 2023 dated 16.04.2023 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act.

And

In Re : Hobu Malla @ Habibur Rahaman @ Raaman @ Habu petitioner

Mr. Kaushik Chaudhury
Ms. Busra Khatun

....for the petitioner

Mr. Sanjoy Bardhan
Mr. Palash Chandra Majhi

..... for the State

1. Learned Counsel for the petitioner submits he is in custody for 85 days. It is also submitted no narcotic substance was recovered from his possession. He prays for bail.
2. Learned Counsel for the State opposes the prayer for bail and submits petitioner has criminal antecedents.
- 3 We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. His complicity has transpired from the statement of the co-accused before 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 and may be released on bail.
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, Balurghat, Dakshin Dinajpur, subject to the conditions that 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 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.)