

D/L. 5.
November 1, 2023
MNS/MB

CRM (NDPS) 1776 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.10.2023 in connection with Bongaon Police Station Case No. 825 of 2022 dated 06.08.2022 under Sections 21(c)/27A/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Kakoli Chandra @ Kakuli

.... Petitioner

Mr. Sabir Ahmed,
Mr. Liton Moitra,
Mr. Hillol Saha Podder

... for the petitioner

Mr. Arijit Ganguly,
Mr. Sanjib Kumar Dan

... for the State.

1. The petitioner alleges that the petitioner has been arrested on the basis of the statement of a co-accused person. It is further contended that there is nothing incriminating against the petitioner.
2. Learned counsel appearing for the State opposes the prayer for bail and argues that although a co-accused's statement was the basis of the arrest, there is further evidence against the petitioner inasmuch as it has been established that the petitioner received a postal consignment which allegedly was handed over, containing the contraband articles, to the said co-accused. However, although there is purportedly proof that the petitioner received a postal consignment on a particular date, the contents of such consignment or the link between the petitioner and the co-accused persons vis-à-vis the same has not been established from the materials in the case diary.

3. Hence, the presumption as raised under the NDPS Act to rebut grant of bail has not been satisfied in the present case.
4. In any event, such circumstances have to be strictly construed since the stipulation in the said Act operates against the personal liberty of the accused.
5. In such circumstances, we find sufficient mitigating circumstances not to apply the rigours of the NDPS Act to the petitioner.
6. Accordingly, CRM (NDPS) 1776 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Barasat.
7. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
8. The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)