

21.12.2023  
tkm/ct 28  
sl no. 27

**C.R.M. (NDPS) 2043 of 2023**

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Hili P.S case no. 116 of 2022 dated 9.5.2025 under sections 21(c)/22(c)/23(c)/27A of the NDPS Act  
and

**Allowed**

In Re : Mintu Mahato @ Mintu Mahata ..... petitioner

Mr. Kaushik Choudhury

..... for the petitioner

Mr. Avishek Sinha

..... for the State

1. Petitioner submits no narcotics was recovered from his possession. He is not the owner of the vehicle. Co-accused is on bail. He prays for bail.

2. Learned lawyer for the State opposes the bail prayer.

3. We have considered the material on record. Petitioner and co-accused were using the vehicle to transport narcotics. They abandoned the vehicle and ran away. Narcotics above commercial quantity was recovered from the vehicle. Further investigating has revealed the owner was unaware of the use of the vehicle. Be that as it may, complicity of the petitioner is based on CDR reports. No other materials to corroborate the CDRs showing presence of the petitioner at the spot is placed on record. It may not be out of place to note that tower location based on CDRs is an approximation and cannot be relied upon in the absence of opinion of the service provider to come to a firm conclusion regarding the presence of an accused at the spot.

4. 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 he may be granted bail.

5. Accordingly, the petitioner 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 CJM, Dakshin Dinajpur on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

6. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

7. The application being CRM (NDPS) 2043 of 2023 is disposed of.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**