

12.09.2023

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***Calcutta High Court
In the Circuit Bench at Jalpaiguri***

CRM (NDPS) 622 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed on 16.08.2023 in connection with Banarhat Police Station Case No. 54 of 2023 dated 06.03.2023 under Sections 21(c) of the NDPS Act, 1985.

In the matter of : Dipak Sah

... petitioner

Mr. Joydeep Kanta Bhowmik,

Mr. Sayantan Bhowmik

...for the petitioner

Mr. Aditi Shankar Chakraborty,

Mr. Aniruddha Biswas

...for the State

1. Learned counsel for the petitioner contends that the shop, where the recovery was made, is in the name of one Samir Das, who has been enlarged on bail. The petitioner stands on a lesser footing vis-à-vis the alleged crime and, as such, ought to be granted bail as well.

2. Learned counsel for the State seriously opposes the prayer for bail and submits that commercial quantity was recovered from the petitioner's shop.

3. However, on query of court, learned counsel submits fairly that subsequently it was seen that the papers relating

to the shop are in the name of one Samir Das, who has been enlarged on bail.

4. It is clarified that drug licence and other licences regarding the shop are in the name of Samir Das, whereas the petitioner is actually in charge of running the shop.

5. A perusal of the materials indicate that all the licences pertaining to the shop, where recovery was made, stand in the name of Samir Das, who has been enlarged on bail, and there is nothing to connect the petitioner to the shop. Merely on the premise that petitioner's signature finds place in the seizure list, does not create a presumption under Section 37 of the NDPS Act against the petitioner.

6. Accordingly, CRM (NDPS) 622 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs. 10,000/- (Rupees Ten Thousand), 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), Jalpaiguri. The petitioner shall not leave the territorial jurisdiction of the Trial Court during the entire period of trial and shall attend on each and every date of trial.

7. Moreover, the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to any police officer or tamper with evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)