

18.01.2024

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Allowed

C.R.M. (NDPS) No. 113 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Hili Police Station Case No. 23 of 2022 dated 23.01.2022 under Sections 21(c)/22(c)/23(c)/27A of the N.D.P.S. Act.

And

In Re : Om Prakash @ Om Narayan Gupta petitioner

Mr. Kaushik Chowdhury

.....for the petitioner

Mr. Saryati Datta

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for 233 days. It is also submitted no narcotics was recovered from the possession of the petitioner. Co-accused is on statutory bail. Accordingly, 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 narcotics 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 enlarged 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-cum-learned Additional District Judge, 3rd Court, Balurghat, Dakshin Dinajpur, on further condition that petitioner shall meet the Officer-in-Charge, Hili Police Station once in a week until further orders. Petitioner 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.

5. In the event 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.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)