

07.02.2024.

08.

Ct.No.28.

as

(Allowed)

C.R.M. (NDPS) 237 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.31 of 2023 arising out of Goalpokher P.S. Case No.575 of 2023 dated 09.10.2023 under Section 21(C) of the NDPS Act.

In the matter of : **Md. Ala.**

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha.

...for the Petitioner.

Mr. Joydeep Roy, Id. Jr. Govt. Adv.,
Ms. Purnima Ghosh.

...for the State.

1. Petitioner contends no narcotics was recovered from his possession. He is in custody for 108 days. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the bail prayer. He submits petitioner and co-accused were travelling in a car. When the car was detained, he had fled from the spot. 315 gms. of heroin was recovered from co-accused.
3. We have considered the materials on record. Though statement of witness claimed one person had fled away from the spot, the said witness could not identify the fleeing miscreant. Identity of the petitioner transpires from the statement of co-accused before the police officer which is inadmissible in evidence.
4. In view of the materials on record, we are of the opinion petitioner has been able to rebut statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail.

5. Accordingly, the petitioner viz., **Md. Ala** 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 the N.D.P.S. Act, Raiganj, Uttar Dinajpur subject to condition that he 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 or commit similar offences in future.

6. 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)