

09.02.2024
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allowed

CRM(NDPS) No. 274 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. 229 of 2023 dated 19.11.2023 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act.

And

In Re : Mahadev Sarkar petitioner

Mr. Koushik Choudhury

Mrs. Busra Khatun

....for the petitioner

Mr. Tnmoy Kumar Ghosh

Mr. Rajesh Jana

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for 74 days. No narcotics was recovered from his possession. He prays for bail.

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

3. We have considered the materials on record. No narcotics was recovered from 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 he 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-Additional District Judge, 3rd Court, Dakshin Dinajpur at Balurghat subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without 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.)