

05.03.2024.
23.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 427 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.248 of 2021 arising out of Kandi P.S. Case No.535 of 2021 dated 09.10.2021 under Sections 21(c)/22(c)/29 of the NDPS Act with Section 27A of the Drugs and Cosmetics Act.

In the matter of : **Dwigendranath Sarkar @ Dwijen.**

.... Petitioner.

Mr. Tapodip gupta,
Mr. Suman Bhanja.

...for the Petitioner.

Mr. Dipankar Paramanick.

...for the State.

1. Petitioner contends no narcotics was recovered from his possession. Accordingly, he prays for bail.
2. Learned advocate for the State opposes the bail prayer. He submits CDRs show telephonic conversations between petitioner and co-accused from whom narcotics has been recovered. Trial is in progress. 16 witnesses have already been examined.
3. We have considered the materials on record. Petitioner is in custody for a considerable period of time i.e. for more than two years. No narcotics was recovered from his possession. Though CDRs show frequent telephonic conversations between petitioner and co-accused from whom narcotics was recovered, contents of such conversation are unknown.
4. In view of scanty materials implicating the petitioner in the crime, 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., **Dwigendranath Sarkar @ Dwijen** 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-cum ADJ, 2nd Court, at Berhampore, Murshidabad 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.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)