

05.04.2024
Sl. No.3
akd
[ALLOWED]

C. R. M. (NDPS) 602 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.03.2024 in connection with Raghunathganj Police Station Case No.980 of 2022 dated 09.11.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.223 of 2022)

And

In Re: ***Amjat Miah***

... .. Petitioner

Mr. Arnab Chatterjee
Ms. Poulami Bose

... .. for the petitioner

Mr. Ashok Das

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 70 days. It is further submitted no narcotics was recovered from his possession. Co-accused has been granted pre-arrest bail. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits narcotics i.e. over 400 kgs. of *Ganja* was recovered from a vehicle. Driver of a vehicle bearing registration No. WB73E-0580 stated petitioner was escorting the contraband. He was in another vehicle bearing registration No. WB64F-8861. Pursuant to such information petitioner, who is the owner of the said vehicle, and his driver were arrested. Driver of the vehicle has been granted pre-arrest bail.
3. From the analysis of the materials on record it shows complicity of the petitioner has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. No independent evidence that the petitioner's vehicle escorting the vehicle containing *Ganja* is placed before us. 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 released on bail.

4. Therefore, the accused/petitioner, namely ***Amjat Miah***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional District Judge, 5th Court, Berhampore, Murshidabad subject to condition that the said 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 or commit similar offences in future.
5. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)