

09.05.2024
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allowed

CRM(NDPS) No. 694 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Cossipore Police Station Case No. 100 of 2023 dated 10.06.2023 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And
In Re : Avijit Ghosh alias Rinku petitioner

Mr. Angshuman Chakraborty
Mr. S. S. Saha
....for the petitioner

Mr. Sujoy Sarkar
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for seven months. No narcotics was recovered from his possession. Accordingly, 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 is based on statement of co-accused before police officer which is inadmissible in law. No money trail between the petitioner and co-accused from whom narcotics was recovered is placed on record. 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-learned Additional Sessions Judge, 12th court, Alipore, South 24-Parganas, subject to condition that 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 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)