

C.R.M. (NDPS) 1345 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure as amended under Section 483 of the B.N.S.S. Act 2023 in connection with **Kasba** P.S. Case No. 517 of 2023 dated 30.12.2023 under Sections 20(b)(II)(c)/58(2) / 29 of the N.D.P.S. Act and charge sheet submitted under Sections 20(b)(II)(c)/58(2)/ 29 of the N.D.P.S. Act.

And

In the matter of: Md. Dilnawaz @ Md. Dilnawaz Hossain

Mr. Santanu Talukdar

Mr. Manojit Debnath ... for the petitioner

Mr. Debasish Roy, Ld. P.P.

Mr. Joydeep Roy

Ms. Nahid Ahmedfor the State

1. Heard the learned advocates for the parties.
2. Petitioner is in custody for about eight months. He submits there is no legally admissible evidence that he was at the place where narcotics were recovered. He further submits statement of Imran Sk. before the learned Magistrate that he had been set up by the petitioner to transport narcotics is inherently improbable. Accordingly he prays for bail.
3. Learned counsel appearing of the State opposes the prayer for bail. He contends petitioner and one Jahangir Molla had hatched an ingenuous plan to transport narcotics. They induced one Imran Sk. on lure of money to place a black rexine bag containing narcotics in a motor-cycle. While on one hand they induced Imran Sk. to do so on the other hand Jahangir Sk. tipped off R.P.F. officials to raid the place. When R.P.F. officials went to the spot police intervened and registered criminal case.
4. We have considered the materials on record. We have also examined the statement of Imran Sk. In his statement Imran alleges petitioner and Jahangir on the lure of money asked him to place a

black rexine bag in a motor-cycle. If this statement is believed to be true the intention of the petitioner and his associate Jahangir was to use Imran as a 'mule' to transport narcotics. Had it been so, it defies logic they would tip off police personnel to abort the project. Moreover, there is no explanation why RPF officials themselves went to the spot though the place of crime is beyond their jurisdiction. It is the established procedure in the event incriminating information regarding transportation of narcotics is received, RPF officials would inform local police administration to take action. There is no explanation with regard to these loose ends in the prosecution case.

5. Under such circumstances, we are of the considered view petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be released on bail.
1. Accordingly, the petitioners 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 Chief Judicial Magistrate, Barasat, North 24 Parganas subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.
2. 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 without any further reference to this Court.
3. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)