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Partly Allowed

CRM (NDPS) No. 2097 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jhargram Police Station Case No. 34 of 2023 dated 08.02.2023 under Sections 21(A)/29 of the NDPS Act.

And

In Re : Sk. Ansar Ali & Anr. petitioners

Mr. Pravas Bhattacharyya

Mr. Dilip Kumar Sadhu

.....for the petitioners

Ms. Amita Gaur

....for the State

1. Learned Counsel for the petitioners submits petitioner no. 1 is in custody for 332 days. Petitioner no. 2 is in custody for 104 days. It is also submitted that they have been falsely implicated. They pray for bail.

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

3. We have considered the materials on record. 32 bottles of Phensedyl Syrup containing codeine phosphate was recovered from the possession of the petitioner no. 1. In view of the aforesaid materials on record and statutory restrictions under Section 37 of the NDPS Act we are not inclined to grant bail to the petitioner no. 1.

4. Application for bail in so far as petitioner no. 1 concerned is, thus, rejected.

5. Complicity of the petitioner no. 2 has transpired from the statement of the co-accused before police officer and no narcotics was recovered from his possession. Accordingly, 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.

6. Accordingly, we direct that petitioner no. 2 viz. Sk. Sabir Ali 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, Jhargram, subject to the condition that he shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event petitioner no. 2 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.

8. The application for bail is, accordingly, allowed in so far as petitioner no. 2 is concerned.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

