

03.05.2024
Court No.01
Item No. 15

Allowed

sg

CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI

CRM (NDPS) 217 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Falakata Police Station Case No.492 of 2023 dated 04.10.2023 under section 21(C)/25/29 of the NDPS Act.

And

In Re: **Dipak Mahali**

Petitioner

Mr. Anirban Banerjee
Mr. Manabendra Ghosh

For the Petitioner

Mr. Aditi Shankar Chakraborty
Mr. Aniruddha Biswas

For the State

1. It is submitted that considering the fact that no contraband article was recovered from the conscious possession of the present accused petitioner, the instant application for bail may be considered favourably. It is further submitted that at the material point of time the present accused petitioner was a driver of a commercial vehicle which has been hired by two other persons and the contraband seized from the said vehicle belongs to the said two persons who hired the vehicle.
2. The learned Counsel for the State, however, opposes the prayer for bail. It is submitted that immediately prior to the seizure when the vehicle in question has been stopped, the present accused petitioner fled away from the spot.
3. We have perused the entire materials as placed before this Court including the statement of the accused petitioner recorded under Section 161 of the Code of

Criminal Procedure. Admittedly, no contraband was seized from the conscious possession of the present accused petitioner. Prima facie materials have been placed that the present accused petitioner is practically driving the vehicle which has been hired by two other persons.

4. Considering the entire scenario, we are of the considered view that the present petitioner is successful in diluting the statutory restriction under Section 37 of the NDPS Act and the present petitioner may be granted bail.
5. We direct that the petitioner, namely, **Dipak Mahali**, shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount each, to the satisfaction of the learned Judge, Special Court (under NDPS Act), 1st Court, Jalpaiguri, with a condition that the petitioner shall meet the Investigating Officer twice in a week till the submission of the final report and shall not leave the jurisdiction of District Alipurduar without the leave of the learned Trial Court till the conclusion of the investigation, and the petitioner shall not tamper with evidence and/or intimidate the witness in any manner whatsoever. In the event of non-compliance of any of the conditions, the learned Trial Court shall issue non-bailable warrant of arrest against the present petitioner.
6. The prayer for bail of the petitioner is allowed. CRM(NDPS)/217/2024 is, accordingly, disposed of.
7. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Soumen Sen, J)

(Partha Sarathi Sen, J)