

28.08.19

Sl. No.4

Ct. No.1

akd

[ALLOWED]

CALCUTTA HIGH COURT

In the Circuit Bench at Jalpaiguri

C. R. M. 743 of 2019

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 19.08.2019 in connection with Sitalkhuchi Police Station Case No. 397 of 2017 dated 15.12.2017 under Sections 20(b)(ii)(B)/21(B)/29 of the NDPS Act. (NDPS Case No.103 of 2017)

And

In Re: **Saidul Mia @ Shaidul Mia**

... .. Petitioner

Mr. Arnab Saha .. Advocate

... .. for the petitioner

Mr. Aditi Shankar Chakraborty .. Ld. Addl. Public Prosecutor

Mr. Aniruddha Biswas .. Advocate

... .. for the State

The petitioner is seeking bail in connection with a case relating to offences punishable under Sections 20(b)(ii)(B)/21(B)/29 of the NDPS Act.

It is submitted on behalf of the petitioner that that no narcotic substance was recovered from his possession and his complicity has transpired from the statement of co-accused before the police officer.

Learned Counsel for the State opposes the prayer for bail and submits that the petitioner was the member of a gang who were illegally transporting narcotic substance i.e. 190 bottles of *phensedyl syrup* containing *codeine mixture* above commercial quantity and 5 kgs. of *Ganja*.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. It is trite law that statement of co-accused before the police officer

implicating the petitioner is inadmissible in evidence. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. In view of the aforesaid fact, we are of the opinion that further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Saidul Mia @ Shaidul Mia**, 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, 1985, Cooch Behar 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.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Manojit Mandal, J.)

(Joymalya Bagchi, J.)