

25.03.2021

Item No.109

Ct.No.28

dc.

Allowed

C.R.M. 1306 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure.

And

In Re : **Kaimuddin Miah @ Mostan**

... Petitioner.

Mr. Kaushik Chowdhury,
Ms. Busra Khatoon

... For the Petitioner.

Mr. Saibal Bapuli,
Mr. Arani Bhattacharyya

... For the State.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Tapan P.S. Case No. 312 of 2020 dated 27.09.2020 under Sections 21(c)/22(c)/23(c)/27A of the Narcotic Drugs and Psychotropic Substances Act (Special Case No. 69 of 2020).

The learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. There had been no recovery of contraband substance from the possession of the petitioner and his name has transpired on the basis of statement of witnesses as recorded under Section 161 of the Code. The petitioner is languishing in custody for more than 70 days and in the said conspectus, further detention of the petitioner is not necessary.

Mr. Bapuli, learned advocate appearing for the State opposes the petitioner's prayer and submits that the petitioner's

name has transpired from the statement of local witnesses, as recorded under Section 161 of the Code.

Heard the learned advocates and considered the materials in the case diary. It appears from the records that there had been no recovery of contraband substance from the possession of the petitioner even after recording of statement of witnesses under Section 161 of the Code. In view thereof, we are of the opinion that the petitioner has been able to overcome the rigours of Section 37 of the N.D.P.S. Act and as such, his prayer for bail is **allowed.**

Accordingly, we direct that the petitioner, namely, **Kaimuddin Miah @ Mostan** shall be released on bail upon furnishing a 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 A.D.J., 3rd Court, Special Judge, Dakshin Dinajpur at Balurghat and on a further condition that the petitioner shall meet with the Investigating Officer once a week on and from 8th April, 2021 until further orders.

In the event the petitioner fails to comply with the conditions as stated above, the learned special court shall be at liberty to cancel his bail, in accordance with law and without any further reference to this Court.

The application for bail, being CRM 1306 of 2021, is, thus, disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)