

26.07.2021
tkm/ct 32
sl no. 15

C.R.M. 3364 of 2021
(Via video conference)

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jalangi P.S Case no. 557 of 2018 dated 9.9.2018 under sections 21(c)/29 of the NDPS Act
And

Allowed

In Re : Ashadul Mondal @ Ashasul Mondal petitioner

Mr. Sourav Mukherjee

Mr. Amanul Islam

..... for the petitioner

Mr. Saryati Datta

..... for the State

The petitioner is in custody for 122 days and it is submitted on behalf of the petitioner that no narcotic substance was recovered from his possession and he has been arraigned on the basis of the statement of a co-accused.

Learned lawyer for the State opposes the prayer for bail and submits that though no contraband substance has been recovered from the possession of the petitioner, the petitioner has been shown arrested in another case under the NDPS Act and has criminal antecedents. However, the said case is still pending and the petitioner has not yet been convicted therein.

Having considered the material in the case diary and keeping in mind the fact that no narcotic substance was recovered from the petitioner and as his complicity in the alleged crime has transpired from the statement of a co-accused before a police officer which is inadmissible in evidence, we are of the opinion that the petitioner has been able to rebut the statutory restriction under section 37 of the NDPS Act and in view of the period of detention suffered by the

petitioner i.e. 122 days and also the fact the co-accused similarly circumstanced with the petitioner has been granted bail by a co-ordinate Bench of this court on 25.11.2019 in CRM 10844 of 2019, we are inclined to grant bail to the petitioner.

Accordingly, the petitioner 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, Murshidabad on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever and shall not commit similar offence in future. He shall report to the Officer-in-Charge of the local police station once every fortnight.

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 without reference to this court.

The application being CRM 3364 of 2021 is disposed of.

(Suvra Ghosh, J.)

(Arijit Banerjee, J.)