

47. 02.09.2021
Ct.32
Tanmoy
Allowed

C.R.M. 4331 of 2021

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on **28/06/2021** in connection with N.D.P.S. Case No. 83 of 2019 arising out of **Hogolberia Police Station Case No. 159 of 2019** dated **09/09/2019** under Sections **188/353/34** of the Indian Penal Code read with Section **21(c)** of the N.D.P.S. Act.

And

In the matter of: - **Rafick Sardar**

....petitioner.

Mrs. Karabi Roy

...for the petitioner (through V.C.).

Mr. Sanjay Bardhan,
Mr. Nirupam Dhali,
Mr. Palash Majhi

...for the State.

Admittedly, there was no recovery of contraband item from the petitioner. His name has transpired from statement made by the co-accused person. In view of there being no recovery from the petitioner, the statutory restriction in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 would not be attracted.

The co-accused person has been granted bail by this Court by an order dated December 12, 2019 passed in C.R.M. 11749 of 2019. It is not disputed on behalf of the State that this petitioner stands on the same footing as that co-accused person. Even otherwise we have considered the material in the Case Diary.

The petitioner has been in custody for 151 days.

On an overall consideration of the facts and circumstances of the case, we are of the view that further custodial detention of the petitioner is not necessary.

Accordingly, we direct that the petitioner 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 learned Judge, Special Court under N.D.P.S. Act, Nadia at Krishnagar, on condition that the petitioner shall appear before the trial Court on every date of hearing and shall meet the Officer-in-Charge of the Police Station within the jurisdiction of which he resides once every fortnight until further orders and shall not leave the district without leave of the Officer-in-Charge. The petitioner shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever and shall not commit similar offence in future.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial Court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being C.R.M. 4331 of 2021 is, accordingly, disposed of.

All parties shall act in terms of server copy of this order downloaded from the official website of this Court.

(Bivas Pattanayak, J.)

(Arijit Banerjee, J.)