

07.12.2021
Sl. No.12
akd
[ALLOWED]

C. R. M. 5370 of 2021

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 12.08.2021 in connection with Sagarpara Police Station Case No. 72 of 2020 dated 02.09.2020 under Sections 186/188/34 of the Indian Penal Code and Sections 21/22/23 of the NDPS Act. (NDPS Case No.158 of 2020)

And

In Re: ***Tuhin Mondal @ Tuhinur Rahaman @ Tuhinur Mondal***
... .. Petitioner

Mr. Jisan Iqbal Hossain
... .. for the petitioner

Mr. Sanjay Bardhan
Ms. Manisha Sharma
... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than five years. It is further submitted that no narcotic substance was recovered from his possession.

Learned advocate appearing for the State opposes the prayer for bail and submits that 55 bottles of *phensedyl syrup* was recovered from the co-accused person. Petitioner fled from the spot.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which 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 and the period of detention suffered by the petitioner, we are of the opinion that further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Tuhin Mondal @ Tuhinur Rahaman @ Tuhinur Mondal***, 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, Berhampore, Murshidabad 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**.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)