

09.12.2021  
tkm/ct 28  
sl no. 74

**C.R.M. 5565 of 2021**

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Jalangi P.S Case no. 46 of 2021 dated 1.3.2021 under sections 21(c)/29 of the NDPS Act  
And

**Allowed**

In Re : Azahar Mondal @ Hasan Molla ..... petitioner

Mr. J I Hossain

..... for the petitioner

Mr. S Bardhan

Ms. Manisha Sharma

..... for the State

It is submitted on behalf of the petitioner that no narcotic was recovered from his possession. Co-accused similarly circumstanced with the petitioner has been granted anticipatory bail.

Learned lawyer for the State opposes the prayer for bail.

Having considered materials on record and bearing in mind the nature of allegations and the extent of complicity of the petitioner in the alleged crime in the light of the submission that no narcotic substance was recovered from his possession and as his complicity in the alleged offence has transpired from the statement of co-accused before a police officer which is inadmissible in evidence, we are of the opinion that petitioner has been able to rebut the statutory restrictions under section 37 of the NDPS Act.

Under such circumstances and in view of the period of detention suffered by the petitioner, 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.

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 being CRM 5565 of 2021 is disposed of.

**(Bivas Pattanayak, J.)**

**(Joymalya Bagchi, J.)**