

07.12.2021
SI. No.47
Aloke
[ALLOWED]

C. R. M. 5599 of 2021

[Via Vide Conference]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 18.08.2021 in connection with Suti Police Station Case No. 76 of 2021 dated 26.02.2021 under Sections 21 (c)/29 of the NDPS Act.

And

In Re: **Kashmir Sk. @ Kashmir Saikh**

... .. Petitioner

Mr. Jisan Iquabal Hossain

... .. for the petitioner

Mr.Santanu Chatterjee

... .. for the State

Petitioner is in custody for about 5 months. It is submitted on behalf of the petitioner that no narcotic substance was recovered from the possession of the petitioner.

Learned advocate appearing for the State opposes the prayer for bail and submits that the petitioner along with co-accused person were dealing in narcotic substance.

From the materials on record, we note that no narcotic substance was recovered from the possession of the petitioner. The complicity of the petitioner has transpired from the statement of co-accused before police officer which is inadmissible in nature.

In view of the aforesaid fact, we are of the view that the petitioner has been able to rebut the presumptions under Sections 37 of the NDPS Act and in view of the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Therefore, the accused/petitioner 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.)