

07.06.2022
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 497 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.05.2022 in connection with Berhampore Police Station Case No. 478 of 2020 dated 26.05.2020 under Sections 22(c)/29 of the NDPS Act. (NDPS Case No.130 of 2020)

And

In Re: ***Sirajul Sk. @ Serajul Sk. @ Sahidul Sk.***

... .. Petitioner

Mr. Somnath Adhikary

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

Report filed in court today be kept with the record.

It is submitted on behalf of the petitioner that he is in custody for about 73 days. 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 co-accused stated narcotic substance above commercial quantity i.e.100 bottles of *phensedyl syrup* was recovered from the petitioner.

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 **Sirajul Sk. @ Serajul Sk. @ Sahidul Sk.**, 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**.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)