

26.05.2022
Court No.05
Item No. 15
D.C/AM

C.R.M. (NDPS) No.532 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with NDPS Case No.7 of 2022 arising out of Kaliachak Police Station Case No.37 of 2022 dated 10.01.2022 under Sections 21(c)/27(a)/29 of the N.D.P.S. Act, 1985;

And

In Re : Sajahan Khan

Petitioner

Mr. Mrityunjoy Chatterjee,
Mr. Debapriya Majumder

For the Petitioner

Md. Anwar Hossain,
Ms. Sreyashee Biswas

For the State

It is submitted by learned counsel for the petitioner that similarly placed other accused persons were already granted anticipatory bail under similar circumstances. It is submitted further that the petitioner was arrested merely on the basis of the statement of co-accused persons.

Learned counsel appearing for the State submits that although anticipatory bail was granted to certain other co-accused persons standing on similar footing, the petitioner was named in the FIR and substantial quantities of contraband articles were found in the present case.

However, since other co-accused persons standing on equal footing have already been granted anticipatory bail, we do not find any feature to distinguish the petitioner in so far as the relief of bail is concerned.

It is further contended by the State that no charge sheet has yet been submitted in the instant case.

However, as rightly pointed out by the petitioner, in view of the petitioner having been arrested on the statements of co-accused persons, the presumption raised under Section 37 of the N.D.P.S. Act is not attracted, in terms, in respect of the petitioner. As such, since other co-accused persons on similar footing, have already been granted anticipatory bail, CRM (NDPS) 532 of 2022 is allowed, thereby releasing the petitioner on bail on condition that the petitioner furnishes 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), 4th Court, Malda.

The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts to any police officer or the Court and/or tamper with evidence in any manner whatsoever.

Further, the petitioner shall not commit any offence as similar to the one for which he has been accused in the present case.

In case of default in compliance of any of the conditions of bail, it will be open to the law enforcement authorities to re-arrest the petitioner.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Sabyasachi Bhattacharyya, J.)

(Rai Chattopadhyay, J.)