

28.07.2022
cm/ct 28
sl no. 6

C.R.M. (NDPS) No. 831 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Dalkhola P.S Case No. 157 of 2021** dated **12.08.2021** under Sections **21(C)/29** of the Narcotic Drugs and psychotropic Substances Act, 1985.

And

Allowed

In Re : Faisal Alam @ Md. Faisal @ Faisal

..... petitioner

Mr. Dipak Sengupta, Sr. Adv.
Mr. Pawan Kr. Gupta
Mr. Arnab Saha
Mr. A. Banerjee

..... for the petitioner

Mr. Sudip Ghosh
Mr. Apurba Kumar Dutta

..... for the State

Petitioner is in custody for over 208 days. It is contended no narcotic substance was recovered from the petitioner. It is further submitted that petitioner was illegally detained in the night of 03.01.2022 and was falsely implicated in the present case.

Learned lawyer for the State opposes the prayer for bail. He submits petitioner was involved in conspiracy in transporting narcotic substance. He relies on call detail records between the petitioner and co-accused from whom narcotic was recovered.

We have considered the materials on record. No narcotic substance was recovered from the petitioner. Prosecution has solely relied on call detail records to establish the charge of conspiracy. Nature of conversation between parties is not established. No other material like money trail in support of the charge of conspiracy is placed before us. Investigation is complete. In view of the slender material collected in the course of investigation which is not corroborated by any other independent materials in support of conspiracy between petitioner and co-accused who was found with

narcotic substance, we are of the opinion petitioner has been able to rebut statutory restrictions under Section 37 of the NDPS Act and he in view of period of detention suffered by him, he may be enlarged on bail subject to strict conditions.

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, Uttar Dinajpur 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 and petitioner while on bail shall remain within the jurisdiction of Dalkhola police station except for the purpose of attending court proceedings and shall appear before the court below.

In the event petitioner 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(NDPS) No. 831 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)