

01.08.2022
cm/ct 28
sl no. 5

C.R.M. (NDPS) No. 862 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with **Kaliachak P.S Case No. 436 of 2022** dated **01.05.2022** under Sections **21(C)/29** of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

Allowed

In Re : Morjem Sk @ Marjen

..... petitioner

Mr. Amitabha Karmakar
Mr. Arup Kr. Bhowmick

..... for the petitioner

Mr. Saryati Dutta

..... for the State

Petitioner is in custody for 88 days. It is contended no narcotic substance was recovered from his possession. It is further contended he has been falsely implicated in the instant case.

Learned lawyer for the State opposes the prayer for bail. He submits petitioner was procuring narcotic substance through co-accused.

We have considered the materials on record. No narcotic substance was recovered from his possession. Though it is contended petitioner made a confessional statement before police, we note the statement was made on 05.05.2022 and no further recoveries have been made pursuant to such statement. Ownership of the Toto from which the narcotic substance was recovered has also not been established.

In view of the aforesaid materials on record, we are of the opinion there is no legally admissible material connecting the petitioner with the alleged crime and he has been able to rebut

statutory restrictions under section 37 of the NDPS Act. Hence, he may be released on bail.

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, Malda 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 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. 862 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)