

05.08.2022
Sl. No.8
akd
[ALLOWED]

C. R. M. (NDPS) 893 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 02.08.2022 in connection with Kaliachak Police Station Case No. 1439 of 2021 dated 27.12.2021 under Sections 21(c)/29 of the NDPS Act and Section 27A of the Drugs and Cosmetics Act. (NDPS Case No.04 of 2022)

And

In Re: ***Sam Mahamad @ Sabdul Sk.***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Swapan Banerjee
Mr. Anindya Sundar Chatterjee

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 20 days. It is further submitted no narcotic substance was recovered from his possession. Co-accuseds have been granted pre-arrest bail.

Learned advocate appearing for the State opposes the prayer for bail.

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. Co-accuseds have been granted pre-arrest bail. 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, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Sam Mahamad @ Sabdul 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, Malda 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.)