

23.08.2022
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 951 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 17.08.2022 in connection with Farakka Police Station Case No. 176 of 2022 dated 03.06.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.140 of 2022)

And

In Re: ***Majorul Hoque @ Md. Majorul Hoque***

... .. Petitioner

Mr. Sandipan Ganguly .. Sr. Advocate
Mr. Tapodip Gupta

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 70 days. It is further submitted petitioner is a dealer in medicinal products. He had a valid licence and he had deposited requisite retention fees along with late fees for extension of the licence as per extant rules. There is nothing on record to show petitioner was in conspiracy with co-accused in the illegal use of *cough syrup* containing *codeine phosphate* other than medicinal purposes.

Learned advocate appearing for the State opposes the prayer for bail and submits petitioner acted in collusion with co-accused and had illegally supplied *cough syrup* containing *codeine phosphate* for illegal consumption other than medicinal purposes. He was unable to explain transactions made from his medicine shop.

We have considered the materials on record. Petitioner had a valid licence to deal in medicinal products. He had also paid retention fees along with late fees within six months from the date of expiry of the licence as per relevant rules. Irregular maintenance of records without

anything more may not lead to the irresistible inference that the petitioner had illegally dealt in medicinal products attracting the stringent provisions of the NDPS Act. In view of the aforesaid, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Documents relating to the business of the petitioner have already been seized. Hence, further detention of the accused/petitioner for progress of investigation is not necessary.

Therefore, the accused/petitioner, namely ***Majarul Hoque @ Md. Majarul Hoque***, 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-cum-Additional District Judge, 5th Court, 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 and on further condition that the petitioner shall meet the Investigating Officer once in a week until further orders.

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.)