

22.09.2022
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1072 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2022 in connection with Kaliachak Police Station Case No. 314 of 2020 dated 19.04.2020 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.22 of 2020)

And

In Re: ***Rafiqul Islam @ Kaka @ Rafikul Islam***

... .. Petitioner

Mr. Priyankar Ganguly
Ms. Shalini Bairagi

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 63 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 and the period detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Rafiqul Islam @ Kaka @ Rafikul Islam***, 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, 3rd Court, 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 any 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**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)