

26.09.2022

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Allowed

C.R.M. (NDPS) No. 1085 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 539 of 2018 dated 29.07.2018 under Sections 15(c)/21(b)/29 of the NDPS Act.

And

In Re : Fakrul Sk. petitioner

Mr. Pulakesh Bajpayee

.....for the petitioner

Mr. Ranabir Roy Chowdhury

Mr. Mainak Gupta

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for 185 days. It is also submitted that no narcotic substance was recovered from his possession. Co-accuseds are on bail. He prays for bail.

Learned Counsel appearing for the State opposes prayer for bail and submits petitioner had absconded for more than three years. He was dealing in narcotic substance with co-accuseds.

We have considered materials on record. No narcotic substance was recovered from the possession of the petitioner. His complicity had transpired from the statements of co-accuseds before police officer which are inadmissible in evidence.

Under such circumstances, we are of the opinion that petitioner has been able to rebut the statutory presumption under Section 37 of the NDPS Act and he may be granted bail.

Accordingly we direct that the petitioner shall 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, subject to condition that the petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)