

27.09.2022

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Allowed

C.R.M. (NDPS) No. 1095 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. 1429 of 2021 dated 24.12.2021 under Sections 21(c)/22(c)/27A/29 of the NDPS Act.

And

In Re : Danu Sk. petitioner

Mr. Mrityunjoy Chatterjee

Mr. G. N. Imrohi

Mr. Debapriya Majumder

.....for the petitioner

Mr. Ranadeb Sengupta

.....for the State

Learned Counsel appearing for the petitioner submits he is in custody for 130 days. It is also submitted that no narcotic substance was recovered from his possession.

Learned Counsel appearing for the State opposes the prayer for bail and submits the petitioner has criminal antecedents.

We have considered materials on record. No narcotic substance was recovered from the possession of the petitioner. His complicity has 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.)