

29.09.2022.
09.
Ct.No.28.
as
(Partly
Allowed)

C.R.M. (NDPS) 1131 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.23 of 2022 arising out of Mongalkote P. S. Case No.67 of 2022 dated 31.03.2022 under Sections 21(c) of the NDPS Act.

In the matter of : Saker Ali Sk. @ Vabul & Anr.

.... Petitioners.

Mr. S. Chatterjee,
Mr. B. K. Dey,
Mr. M. Pramanik.

...for the Petitioners.

Mr. T. D. Nandy,
Mr. A. Basu.

...for the State.

Petitioners are in custody for five and half months. It is contended no narcotic substance was recovered from the petitioner no.2. They pray for 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 No.2 and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence.

Under such circumstances, we are of the opinion that the petitioner No.2 has been able to rebut the statutory restrictions under Section 37 of the N. D. P. S. Act and he may be granted bail.

Accordingly, the petitioner No.2 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 N.D.P.S. Act, Purba Bardhaman subject to condition that he 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.

In the event the petitioner No.2 fails to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

However, statements of witnesses and seizure memorandum show recovery of narcotic substance above commercial quantity i.e. 6.3 ltrs. of codeine mixture from the possession of the petitioner No.1 and other co-accuseds.

Hence, we are not inclined to grant bail to the petitioner No.1.

Accordingly, the prayer for bail of the petitioner no.1 is rejected

This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)