

20.10.2022.
Ct.No.28
19.
as/cm
(Allowed)

C.R.M. (NDPS) 1231 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No.72 of 2021 arising out of Kaliachak P. S. Case No.866 of 2021 dated 19.08.2021 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Moti Sk @ Motiur Rahaman.
.... Petitioner.

Mr. Rana Mukhopadhyay,
Mr. Rhiddhiman Mukherjee.
...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Debjani Dasgupta.
...for the State.

It is submitted on behalf of the petitioner that the petitioner is not named in the FIR. Contraband articles were seized from the physical possession of one Indrajit Mandal. In view of the discrepancy in the seizure list, the said Indrajit Mandal was granted bail by the trial court.

It is alleged on behalf of the prosecution that Indrajit stated in his statement under Section 161 of the Code of Criminal Procedure that the present petitioner and one Jayanta Mandal were with him but they fled away when Indrajit was apprehended. Thus, it is submitted on behalf of the prosecution that the petitioner was in conscious possession of commercial quantity of narcotic substance. Therefore, the learned Public Prosecutor-in-charge has vehemently opposed the prayer for bail.

Having considering the materials on record and bearing in mind the extent of complicity of the petitioner in the alleged crime, it is ascertained that the petitioner was implicated in this case on the basis of the statement made by a co-accused before the police officer which is inadmissible in evidence.

We are of the view that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and accordingly he is entitled to be released on bail. Furthermore, we must note that the principal accused and another one who is claimed to be another associate of the principal accused were released on bail and anticipatory bail respectively.

In view of such circumstances, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- (Rupees ten thousand) with two sureties of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Malda with further condition that if on bail he shall attend the trial of the case regularly before the trial court, failing which the instant order of bail shall be cancelled without further reference to this Bench.

The application for bail is accordingly allowed.

(Bibek Chaudhuri, J.)

(Biswaroop Chowdhury, J.)

