

04.11.2022
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1300 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.10.2022 in connection with Berhampore Police Station Case No. 1258 of 2021 dated 29.10.2021 under Sections 22(c)/29 of the NDPS Act. (NDPS Case No.235 of 2021)

And

In Re: **Sakirul Sarkar**

... .. Petitioner

Ms. Minoti Gomes
Mr. Jisan Iqbal Hossain

... .. for the petitioner

Mr. Sanjay Bardhan
Mr. Palash Ch. Majhi

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 70 days. It is further submitted no narcotic substance was recovered from his possession. Investigation is complete.

Learned advocate appearing for the State opposes the prayer for bail and submits there were telephonic conversations between the petitioner and co-accused from whom narcotic substance above commercial quantity was recovered.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. Prosecution relies on telephonic conversations between the petitioner and co-accused from whom narcotic substance above commercial quantity was recovered. Contents of such conversations have not been placed on record. Money trail establishing complicity of the petitioner in the transaction has also not been established. Investigation is complete. 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 of detention

suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Sakirul Sarkar***, 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, Special Court under the NDPS Act, Berhampore, Murshidabad 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.)