

10.11.2022
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 1309 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.11.2022 in connection with Kaliachak Police Station Case No. 1419 of 2021 dated 20.12.2021 under Sections 21(c)/29 of the NDPS Act read with Section 27A of the Drugs and Cosmetics Act, 1940.

And

In Re: **Bahadur Mia**

... .. Petitioner

Mr. Kalidas Saha

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor

Mr. Bibaswan Bhattacharya

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 82 days. It is further submitted no narcotic substance was recovered from his possession.

Learned advocate appearing for the State opposes the prayer for bail.

We have considered the materials on record. We find there is no legally admissible evidence connecting the petitioner with the transportation of narcotic substance. 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 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 **Bahadur Mia**, 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, 1985-cum-Additional District & Sessions Judge, 3rd Court, Malda 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.)