

16.12.2022
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1489 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 09.12.2022 in connection with Garbeta Police Station Case No. 132 of 2014 dated 12.05.2014 under Sections 20(b)(ii)(c)/25 of the NDPS Act. (NDPS Case No.11 of 2014)

And

In Re: ***Limon Malakar @ Niman Malakar @ Nirmal Malakar @ Nimon Malakar***
... ... Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha
... ... 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 91 days. It is further submitted petitioner was apprehended in another case in September, 2019. He was not produced in the present case till September, 2022. He has been enlarged on bail in the other case in November, 2022.

Learned advocate appearing for the State opposes the prayer for bail and submits petitioner had absconded for a protracted period of time.

We have considered the materials on record. Though the petitioner was in custody in another case since 2019, he was not produced in the present case till September, 2022. Delay in the present case cannot be wholly attributed to the petitioner. No narcotic substance was recovered from his possession. 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 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 ***Limon Malakar @ Niman Malakar @ Nirmal Malakar @ Nimon Malakar***, 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, Paschim Medinipur 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.)