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Allowed

C.R.M. (NDPS) No. 10 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 670 of 2019 dated 16.10.2019 under Section 27(a) of the Drugs and Cosmetics Act and Section 21(c) of the NDPS Act.

And

In Re : Hasmukh Islam @ Hasmat Mia petitioner

Mr. Mazhar Hossain Chowdhury

.....for the petitioner

Mr. Neguive Ahmed, learned APP

Ms. Trina Mitra

.....for the State

Leave is granted to the learned Counsel appearing for the petitioner to amend the cause title.

Learned Counsel appearing for the petitioner submits he is in custody for 59 days. No narcotic substance was recovered from the possession of the petitioner. He prays for bail.

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

We have considered the materials on record. No narcotic substance was recovered from his possession. His complicity has transpired from the statement of co-accused before police officer which are inadmissible in evidence. Investigation is complete. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be granted bail.

Accordingly, we direct that the petitioner 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 Chief Judicial Magistrate, Malda, subject to conditions 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 he 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.

The application for bail is, accordingly, allowed.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)