

19.01.2023

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Allowed

C.R.M. (NDPS) No. 74 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 782 of 2022 dated 02.05.2022 under Sections 21(c)/29 of the N.D.P.S. Act read with Section 27(A) of Drugs and Cosmetics Act.

And

In Re : Mustafijur Rahaman @ Mostafijur Rahaman petitioner

Mr. Mrityunjoy Chatterjee

.....for the petitioner

Mr. T.D. Nandy

Mr. Antarikhya Basu

.....for the State

Learned Counsel for the petitioner submits he is in custody for 41 days. It is also submitted that no narcotic substance was recovered from his possession. Co-accuseds are on bail. He prays for bail.

Learned Counsel appearing for the State opposes the prayer for bail and submits there were telephonic conversations between the petitioner and the co-accuseds.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. Investigation is complete. Apart from telephonic conversations (contents whereof are unknown) no legally admissible evidence connecting the petitioner in the crime is placed on record. 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 he 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 Judge, Special Court under NDPS Act, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)