

30.01.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 84 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.01.2023 in connection with Kaliachak Police Station Case No. 783 of 2022 dated 22.07.2022 under Sections 21(c)/27A/29 of the NDPS Act. (NDPS Case No.97 of 2022)

And

In Re: ***Jahiruddin Khan @ Jahiruddin @ Johiruddin***
... .. Petitioner

Mr. Rana Mukhopadhyay
... .. for the petitioner

Mr. Ranadeb Sengupta
... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than 130 days. It is further submitted no narcotic substance was recovered from his possession.

Learned Advocate for the State opposes the prayer for bail and submits petitioner had telephonic conversations with co-accuseds (one of whom is his son) from whom narcotic substance was recovered. Prayer for bail of co-accused viz. Ram Mandal was rejected by a coordinate Bench of this court.

We have considered the materials on record. We find that no narcotic substance was recovered from the petitioner. Call Data Records (CDRs.) showing communications (*contents whereof are unknown*) between petitioner and co-accuseds (one of whom is his son) were collected. Conversation between two relations by itself cannot give rise to an inference of conspiracy. No other legally admissible evidence supporting the charge of conspiracy is placed on record. 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 ***Jahiruddin Khan @ Jahiruddin @ Johiruddin.***, 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-cum-Additional District Judge, 4th 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.)