

13.02.2023
Sl. No.25
akd
[ALLOWED]

C. R. M. (NDPS) 250 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.02.2023 in connection with Kaliachak Police Station Case No. 436 of 2022 dated 01.05.2022 under Sections 21(c)/25/29 of the NDPS Act.

And

In Re: ***Mahibur Sk. @ Kalu***

... .. Petitioner

Mr. Kalidas Saha

... .. for the petitioner

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 180 days. It is further submitted no narcotics was recovered from his possession. Co-accused has been enlarged on bail.

Learned advocate appearing for the State opposes the prayer for bail and submits petitioner has criminal antecedents.

We have considered the materials on record. We find that no narcotics was recovered from the petitioner. Co-accused has been enlarged on bail. 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 ***Mahibur Sk. @ Kalu***, 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.)