

21.04.2023
Sl. No.23
akd
[ALLOWED]

C. R. M. (NDPS) 837 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.04.2023 in connection with Maidan Police Station Case No.76 of 2022 dated 12.08.2022 under Sections 21(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.31 of 2022)

And

In Re: ***Ohikul Islam @ Raju***

... .. Petitioner

Mr. Shataroop Purukayastha
Mr. Jagriti Bhattacharya
Mr. Hamidur Rahaman

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 244 days. It is further submitted no narcotics was recovered from his possession. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner had financed transaction in narcotics.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. No money trail corroborating the prosecution allegation of financing narcotics trade is placed before us. 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 ***Ohikul Islam @ Raju***, 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, City Sessions Court, Calcutta 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.)