

04.05.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 930 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.05.2023 in connection with Baishnabnagar Police Station Case No.413 of 2022 dated 18.05.2022 under Section 27(a) of the Drugs & Cosmetics Act read with Section 21(c) of the NDPS Act.

And

In Re: ***Yunus Ali***

... .. Petitioner

Mr. Ramdulal Manna
Ms. Manju Manna (Dey)
Mr. Sayan Mukherjee
Ms. Payel Khanra

... .. for the petitioner

Mr. Ranabir Roy Chowdhury
Mr. Mainak Gupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about 101 days. It is further submitted no narcotics was recovered from his possession. Investigation is complete. Accordingly, he prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner was involved in trafficking *phensedyl syrup* for non-medicinal purposes. Call Detail Records (CDRs.) show telephonic communications between petitioner and co-accused viz. Manjarul Sk. from whom narcotics was recovered.

We have considered the materials on record. No narcotics was recovered from the petitioner. Apart from telephonic exchanges (*contents whereof are unknown*), there is no other legally admissible evidence connecting the petitioner with the crime. No money trail between the petitioner and co-accused has been traced out. He does not stand on the same footing with co-accused viz. Manjarul Sk. from whom narcotics was recovered. Investigation is complete. In view of the

slender materials on record, we are of the opinion petitioner has been able to make out a prima facie defence which is sufficient to rebut the statutory restrictions under Section 37 of the NDPS Act. Under such circumstances and in view of 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 **Yunus Ali**, 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, 3rd 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.)