

04.07.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 1187 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 20.06.2023 in connection with Kaliachawk Police Station Case No.1134 of 2022 dated 05.10.2022 under Sections 22(c)/27A/29 of the NDPS Act.

And

In Re: ***Abdul Muttalib @ Motalip***

... .. Petitioner

Mr. Kaustav Das

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that 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 is the relative of the principal accused viz. Kalu Sk. from whose house narcotics was recovered. Police report states that petitioner was the co-owner of the house.

We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. No documentary evidence with regard to petitioner's ownership or possession of the premises from where narcotics was recovered has been placed on record. Statements of witnesses with regard to the role of the petitioner is primarily founded on his relationship with the principal accused and cannot be a clinching circumstance to establish culpability. Under such circumstances, we are of the opinion petitioner has made out a case to rebut the statutory restrictions under Section 37 of the NDPS Act. In view of the aforesaid fact, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely **Abdul Muttalib @ Motalip**, 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 3rd Court, under the NDPS Act, 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.)