

08.08.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 1259 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 06.07.2023 in connection with Baishnabnagar Police Station Case No. 155 of 2022 dated 18.02.2022 under Sections 21(c)/29 of the NDPS Act.

And

In Re: ***Mostaque Ahammed @ Mustak Ahamed @ Mostek Ahamed***
... .. Petitioner

Mr. Avinaba Patra
Ms. Pramita Banerjee

... .. for the petitioner

Mr. Rudradipta Nandy .. Id. Addl. Public Prosecutor
Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for about one year and six months. Apart from the plea that he has been falsely implicated, it is contended he is entitled to bail on the ground of delay in trial and parity. Co-accused viz. Kinkar Sarkar @ Maju has been enlarged on bail by the Hon'ble Apex Court. Accordingly, he prays for bail.

Learned Advocate for the State submits report from the service provider to support the prosecution case that the petitioner was present at the place of recovery. Report is kept with the record.

We have considered the materials on record. Statements of witnesses and the report placed before us prima facie establish presence of the petitioner at the place of recovery. Be that as it may, petitioner is in custody for about 1½ years. Bail prayer of co-accused on the ground of delay has been allowed by the Hon'ble Apex Court in Criminal Appeal No.2263 of 2023. On this score, petitioner stands on the same footing with the said co-accused and is entitled to the same relief.

Therefore, the accused/petitioner, namely ***Mostaque Ahammed @ Mustak Ahamed @ Mostek Ahamed***, 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.)