

31.07.2023.
12.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1334 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.160 of 2022 arising out of Jalangi P. S. Case No.215 of 2022 dated 27.06.2022 under Sections 21(c)/29 of the NDPS Act.

In the matter of : Jiyarul Sk. @ Jiarul Sk.

.... Petitioner.

Mr. Jisan Hossain,
Ms. Chandrima Debnath,
Mr. Karnel Mondal.

...for the Petitioner.

Mr. Sanjoy Bardhan,
Ms. Baishakhi Chatterjee.

...for the State.

Petitioner is in custody for 54 days. It is submitted no narcotics was recovered from his possession. He prays for bail.

Learned Advocate for the State submits petitioner was at the spot when narcotics was recovered from a vehicle. He fled away from the spot. He further submits CDRs show frequent telephonic exchanges between petitioner and the co-accused.

We have considered the materials on record. Prosecution case is based on two incriminating facts. Firstly, it is contended petitioner was at the present at the spot. There is no legally admissible evidence to establish this circumstance apart from statement of co-accused before police officer which is inadmissible in law. Secondly, the CDRs showing telephonic exchanges between petitioner and the co-accused. Contents of such exchange is unknown. Quality of evidence is weak.

In the light of such scanty evidence on record to establish the complicity of the petitioner in the transportation of narcotics, we are of the opinion petitioners have been able to make out a defence which rebuts statutory restrictions under Section 37 of the NDPS Act. Investigation is complete and his detention for progress of investigation is not necessary. Hence, he may be enlarged on bail.

Accordingly, the petitioners viz., shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act, Murshidabad at Berhampore subject to condition that they 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.

In the event the petitioners fail to appear before the Trial Court without any justifiable cause, the trial Court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)