

17.08.2023
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allowed

CRM(NDPS) No. 1399 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No. 228 of 2022 dated 06.07.2022 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And
In Re : Murselim Sk. @ Mursalim Ali petitioner

Ms. Shabana Hasin
....for the petitioner

Mr. Ranadeb Sengupta
.... for the State

1.Learned Counsel for the petitioner submits he is in custody for 42 days. Investigation is complete. No narcotics was recovered from his possession. He prays for bail.

2.Learned Counsel for the State opposes the prayer for bail and submits bail prayer of co-accused, Jilias Sk. was rejected.

3.We have considered the materials on record. No narcotics was recovered from the possession of the petitioner whereas recovery was made from the possession of Jilias Sk. Petitioner does not stand on the same footing with the said co-accused whose bail prayer has been rejected. On the other hand, he stands on similar footing with other co-accused who have been enlarged on bail. Under such circumstances we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be released on bail.

4.Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties

of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act cum ADJ, 5th Court, Berhampore, Murshidabad, subject to the conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)