

04.09.2023
Sl. No.7
akd
[ALLOWED]

C. R. M. (NDPS) 1460 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 24.08.2023 in connection with Sainthia Police Station Case No.20 of 2023 dated 26.01.2023 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act. (NDPS Case No.02 of 2023)

And

In Re: **Sarukh Ansari**

... .. Petitioner

Mr. Saryati Datta
Mr. Sanjib Kumar Dan
Mr. Chitrak Biswas

... .. for the petitioner

Mr. Saibal Bapuli .. Id. Addl. Public Prosecutor
Mr. Arani Bhattacharyya

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 221 days. It is further submitted no narcotics was recovered from his possession. Investigation is complete. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits tower location shows petitioner was present at the place of occurrence.
3. In response, it is submitted on behalf of the petitioner the tower location evidence is not conclusive.
4. In the light of such submission, report was sought for. A cryptic report is filed.
5. From the report it appears the offending vehicle was recovered 12 kms. from the village of the petitioner. Report does not indicate the range of the mobile tower location in the area. Opinion of the service provider is also not placed on record.

6. We have considered the contents of the report in the light of the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. His complicity is based on mobile tower location. For the reasons recorded above, we do not find conclusive evidence vis-à-vis presence of the petitioner at the place of occurrence. Investigation is complete. In view of the scanty materials on record implicating the petitioner in the transportation of narcotics, we are of the opinion he has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. In view of the aforesaid fact and the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.
7. Therefore, the accused/petitioner, namely **Sarukh Ansari**, 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, 1st Court, Suri, Birbhum 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.
8. 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.
9. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

