

06.10.2023
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 1635 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 27.09.2023 in connection with Kaliachak Police Station Case No.1419 of 2021 dated 20.12.2021 under Sections 21(c)/29 of the NDPS Act read with Section 27A of the Drugs and Cosmetics Act, 1940.

And

In Re: ***Barkat Mia @ Barkat Ali***

... .. Petitioner

Mr. Kaushik Choudhury

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about 38 days. It is further submitted no narcotics was recovered from his possession. Co-accused have been enlarged on bail. Investigation is complete. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner and his complicity has transpired from the statement of co-accused before a police officer which is inadmissible in evidence. Co-accused similarly circumstanced with the petitioner have been enlarged on bail. Investigation is complete. Under such circumstances, we are of the opinion petitioner 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.

4. Therefore, the accused/petitioner, namely ***Barkat Mia @ Barkat Ali***, 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.
5. 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.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)