

19.10.2023
Sl. No.4
akd
[ALLOWED]

C. R. M. (NDPS) 1727 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 11.10.2023 in connection with Bhagwangola Police Station Case No.165 of 2023 dated 28.04.2023 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.56 of 2023)

And

In Re: **Mainul Sk.**

... ... Petitioner

Mr. Arnab Chatterjee

... ... 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 165 days. It is further submitted no narcotics was recovered from his possession. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits bail prayer of co-accused viz. Jaffar Ali was turned down by this court. Petitioner is involved in interstate trafficking of narcotics.
3. We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. No legally admissible evidence disclosing his involvement in dealing in narcotics is placed on record. Co-accused viz. Jaffar Ali was the owner of the transporter company viz. '*Shri Janata Goods Carrier*' which had hired the vehicle used for transportation of narcotics. Petitioner does not stand on the same footing with the said co-accused. Under such circumstances and in view of the extent of complicity of the petitioner in the alleged crime, 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.

4. Therefore, the accused/petitioner, namely **Mainul Sk.**, 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 Chief Judicial Magistrate, Murshidabad at Berhampore 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.)