

19.10.2023
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 1729 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.10.2023 in connection with Kaliachak Police Station Case No.11 of 2023 dated 04.01.2023 under Sections 21(c)/29/27A of the NDPS Act.

And

In Re: ***Golam Mostafa @ Akhtar***

... .. Petitioner

Mr. Amitabha Karmakar
Mr. Arup Kumar Bhowmick

... .. for the petitioner

Mr. Sudip Ghosh
Mr. Bitasok Banerjee

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for a month. It is further submitted recovery of narcotics was from the room of the brother of the petitioner. He did not play any role with regard to storing or dealing in narcotics. Investigation is complete. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner used to reside in the same premises. He did not cooperate with the investigation and absconded.
3. We have considered the materials on record. Recovery was made from the room of the brother of the petitioner. As a member of the family petitioner used to reside in the same house. Apart from the aforesaid, no other material is placed on record to show petitioner assisted his brother in storage or dealing in narcotics. 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.

4. 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.
5. Therefore, the accused/petitioner, namely **Golam Mostafa @ Akhtar**, 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, 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.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)