

29.11.2023.
10.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1885 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.122 of 2022 arising out of Kaliachak P.S. Case No.875 of 2022 dated 12.08.2022 under Sections 21(C)/27(A)/29 of the NDPS Act.

In the matter of : **Md. Azizur Rahaman.**

.... Petitioner.

Mr. Mrityunjoy Chatterjee,
Mr. Debapriya Majumder,
Mr. Manas Das,
Mr. Tushar Hazra.

...for the Petitioner.

Mr. Saibal Bapuli, Id. A.P.P.,
Ms. Jonaki Saha.

...for the State.

1. Petitioner submits he is in custody for more than a year. He contends nothing has transpired during investigation to connect him with the alleged crime. Co-accused viz., Devendra Ahuja @ Chintu has been enlarged on bail. He also seeks similar relief.
2. Learned Additional Public Prosecutor opposes the bail prayer. He contends petitioner is a member of an interstate gang which trafficked in narcotics.
3. We have considered the materials on record. Petitioner is a drug dealer. Large volumes of phensedyl syrup containing codeine phosphate were recovered from co-accused viz., Alok Kumar Mondal. Pursuant to his statement petitioner was arrested. He is in custody for more than a year. Involvement of the petitioner has transpired from statement of co-accused which is inadmissible in evidence. Chain of custody of the

seized articles leading to the petitioner has not been established. Under similar circumstances co-accused Devendra Ahuja @ Chintu has been enlarged on bail.

4. Under such circumstances, we are of the opinion petitioner has been able to rebut statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail.

5. Accordingly, the petitioner viz., **Md. Azizur Rahaman** shall be released on bail upon furnishing a bond of Rs.1,00,000/- with five sureties of Rs.20,000/- each, two of whom must be local, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act, 4th Court, Malda subject to condition that he 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 and on further condition petitioner while on bail shall reside within the district of Malda and provide address where he shall presently reside to the investigating agency as well as Court below. He shall also report to the Officer-in-charge, Kaliachak Police Station once in a week until further orders.

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

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

