

19.12.2023
Sl. No.9
akd
[ALLOWED]

C. R. M. (NDPS) 1950 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 28.11.2023 in connection with Jhalda Police Station Case No.49 of 2023 dated 19.03.2023 under Sections 21(c)/27/29 of the NDPS Act. (NDPS Case No. 6 of 2023)

And

In Re: **Malay Dutta**

... .. Petitioner

Mr. Sukhendu Bikash Mukherjee

... .. for the petitioner

Mr. Aniket Mitra

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for about nine months. 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.
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. 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 **Malay Dutta**, 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-cum-Additional District & Sessions Judge, 2nd Court,

Purulia 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.)