

20.12.2023.
08.
Ct.No.28
Sourav
[Allowed]

C.R.M. (NDPS) 2003 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 670 of 2019 dated 16.10.2019 under Sections 27(a) of the Drugs & Cosmetics Act, 1940.

In the matter of : Mukhtar Islam @ Mukhtab Islam @ Moktar Hossain.

... Petitioner.

Mr. Kalidas Saha

...for the Petitioner.

Mr. Iqbal Kabir

...for the State.

1. It is submitted on behalf of the petitioner that no narcotics was recovered from his possession. Accordingly, he prays for bail.
2. Learned lawyer 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.
4. 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, we are of the opinion further detention of the accused/petitioner is not necessary.

5. Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- 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, 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 or commit similar offences in future.
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, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)