

19.01.2024

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Allowed

C.R.M. (NDPS) No. 136 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 1352 of 2023 dated 12.10.2023 under Section 21(c)/29/27A of the N.D.P.S. Act.

And

In Re : Mofajul Hoque @ Naga ..... petitioner

Mr. Amitabha Karmakar

Mr. Arup Kumar Bhowmick

.....for the petitioner

Ms. Sayanti Santra

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for 103 days. It is also submitted no narcotics was recovered from his possession. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits there are CDRs between petitioner and others.

3. We have considered the materials on record. Recovery of narcotics which is above commercial quantity was made from a toto. Two persons had fled away from the spot. Petitioner was arrested on suspicion. He is not the owner of the toto. In view of scant materials on record we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be enlarged on bail.

4. Accordingly, we direct that 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 NDPS Act-cum-learned Additional District Judge, 3<sup>rd</sup> Court, Malda, subject to conditions 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.

5. In the event 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.

6. The application for bail is, accordingly, allowed.

**(Gaurang Kanth, J.)**

**(Joymalya Bagchi, J.)**