

21.02.2024
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allowed

CRM(NDPS) No. 338 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with English Bazar Police Station Case No. 1240 of 2022 dated 05.08.2022 under Sections 21(c)/29 of the NDPS Act.

And
In Re : Senaul Sk. @ Sena petitioner

Mr. Avinaba Patra
....for the petitioner

Mr. Debabrata Chatterjee, learned PP
Ms. Jonaki Saha
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for 75 days. No narcotics was recovered from his possession. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits CDRs show telephonic conversation between the petitioner and co-accused Kalu Sekh @ Kalu Sk. from whose residence 594 bottles of phensedyl syrup were recovered.

3. We have considered the materials on record. No narcotics was recovered from the petitioner. Prosecution relies on CDRs showing telephonic conversation between the petitioner and co-accused, Kalu Sekh from whom narcotics above commercial quantity was recovered. Contents of conversation are not known. Though petitioner was taken to police custody no incriminating circumstance disclosing his involvement in dealing in narcotics has transpired. Under such circumstances, we are of the opinion

petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and he 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-Additional District & Sessions Judge, 4th Court, Malda, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without 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.)