

21.02.2024
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allowed

CRM(NDPS) No. 341 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dalkhola Police Station Case No. 25 of 2022 dated 18.01.2022 under Sections 21(c)/29 of the NDPS Act.

And

In Re : Matiur Rahaman @ Motiur Rahaman petitioner

Mr. Shaharayar Alam

....for the petitioner

Mr. Iqbal Kabir

.... for the State

1. Learned Counsel for the petitioner submits he is in custody for more than four years. No narcotics was recovered from his possession. It is also submitted co-accused Mahanta Mallick has been granted pre-arrest bail. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner had absconded for a protracted period of time.

3. We have considered the materials on record. No narcotics was recovered from the petitioner. His complicity has transpired from the statement of co-accused before police officer which is inadmissible in evidence. Co-accused Mahanta Mallick has been granted pre-arrest bail. Petitioner stands on the same footing with the said Mahanta Mallick. 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, Raiganj, Uttar Dinajpur, 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.)