

13.03.2024
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allowed

CRM(NDPS) No. 488 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. 1154 of 2021 dated 08.09.2021 under Sections 21(c)/29 of the NDPS Act.

And
In Re : Khadimul Islam @ Khadim Sk. petitioner

Mr. Mrityunjoy Chatterjee
Mr. Manas Das
Mr. Debapriya Majumder
Mr. Akash Sarkar
....for the petitioner

Mr. Koushik Kundu
.... for the State

1. Learned Counsel for the petitioner submits he is in custody for about two years. It is also submitted chemical examiner's report does not show presence of Heroin in the sample drawn from the contraband recovered from the petitioner. He prays for bail.

2. Learned Counsel for the State opposes the prayer for bail.

3. We have considered the materials on record. Initially narcotics was recovered from co-accused. Thereafter on the leading statement of the petitioner it is alleged 300 gms. of Heroin was recovered. Chemical examiner's report enclosed in the supplementary charge-sheet shows sample drawn from the contraband recovered on the statement of the petitioner did not test positive to Heroin. 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, 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)