

05.11.2024

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Allowed

C.R.M. (NDPS) No. 1536 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure correspondence to Section 483 of BNSS in connection with Kaliachak Police Station Case No. 1209 of 2024 dated 03.08.2024 under Sections 21(c)/25/27A/29 of the N.D.P.S. Act.

And

In Re : Md. Mahibar Sk. petitioner

Mr. Subhadeep Ghosh

Mr. Avinaba Patra

Ms. Papia Bhowmick

.... for the petitioner

Mr. Debasish Roy, learned PP

Mir Anunuzzaman

.... for the State

1. Learned Counsel for the petitioner submits no narcotics was recovered from the petitioner. He is in custody for 88 days. Accordingly, he prays for bail.

2. Learned Public Prosecutor opposes the bail prayer and submits 451 grams of brown sugar and large volume of cash were recovered.

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 a police officer which is inadmissible in evidence.

4. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory

restrictions under Section 37 of the NDPS Act and he may be granted bail.

5. 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 of the learned Additional District and Sessions Judge, 4th court, Malda, subject to condition that 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.

6. 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.

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

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)