

19.01.2024
Sl. No.4
akd
[ALLOWED]

C. R. M. (NDPS) 1994 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.12.2023 in connection with Kaliachak Police Station Case No.1134 of 2022 dated 05.10.2022 under Sections 21(c)/27A/29 of the NDPS Act.

And

In Re: ***Miskat Sk. @ Enayet Sk.***

... .. Petitioner

Mr. Sandip Chakraborty
Mr. Kaustav Das

... .. for the petitioner

Mr. Saryati Datta

... .. for the State

1. It is submitted on behalf of the petitioner he did not ordinarily reside in the house from where narcotics was recovered. It is further submitted petitioner relies on a residential certificate issued by the Block Development Officer (BDO) in that regard. Let the said document be kept with the record. Accordingly, he renews his prayer for bail.
2. Learned Advocate for the State opposes the prayer for bail.
3. We have considered the materials on record. A large volume of narcotics i.e. 1.7 kgs. of *Heroin* was recovered from a residential quarter. The residence is the joint occupation of the family members of the petitioner. However, he did not ordinarily reside at the place wherefrom recovery was made. This fact is corroborated by the documents issued by a responsible public officer. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Hence, we are of the opinion further detention of the accused/petitioner is not necessary.

4. Therefore, the accused/petitioner, namely **Miskat Sk. @ Enayet Sk.**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional District & Sessions Judge, 3rd Court, Malda subject to condition that the said 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 or commit similar offences in future.
5. In the event he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)