

29.01.2023.
06.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 2060 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.35 of 2023 arising out of Patiram P.S. Case No.65 of 2023 dated 16.04.2023 under Sections 21(c)/22(c)/23(c)/27A of the NDPS Act.

In the matter of : **Akhirul Fakir @ Akherul Fakir.**

.... Petitioner.

Mr. Kaushik Chaudhury,
Ms. Busra Khatoon.

...for the Petitioner.

Ms. Subhasree Patel.

...for the State.

1. Report with regard to criminal antecedents of the petitioner is placed on record.
2. Petitioner contends no recovery was made from his possession. He is in custody for 78 days. Accordingly, he prays for bail.
3. Learned Advocate for the State opposes the bail prayer.
4. We have considered the materials on record including the report relating to criminal antecedents of the petitioner. Report shows petitioner had been booked in similar cases involving narcotics substance. But in none of the cases narcotics were recovered from his possession. In the present case also, no recovery has been made from his possession. His complicity has transpired from the statement of co-accused before police officer which is inadmissible in evidence.
5. Keeping in mind the inadmissible nature of evidence implicating the petitioner in the crime, we are of the opinion he

has been able to rebut statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail.

6. Accordingly, the petitioner viz., **Akhirul Fakir @ Akherul Fakir** 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 the N.D.P.S. Act, Balurghat, Dakshin Dinajpur subject to condition that he 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.

7. 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.

8. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)