

05.01.2024

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Allowed

C.R.M. (NDPS) No. 10 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Kaliachak Police Station Case No. 26 of 2023 dated 05.01.2023 under Sections 21(c)/27A/29 of the N.D.P.S. Act.

And

In Re : Selim Sk. petitioner

Mr. Arup Kumar Bhowmick

.....for the petitioner

Mr. Sujan Chatterjee

.....for the State

1. Learned Counsel for the petitioner submits he is in custody for 30 days. He was shown arrested and no narcotics was recovered from his possession. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits petitioner has criminal antecedents.

3. In reply, learned Counsel for the petitioner submits he is on bail in the other case.

4. We have considered the materials on record. No narcotics was recovered from the possession of the petitioner. His complicity has transpired from the statement of co-accused before police officer which is inadmissible in evidence. 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 may be enlarged on 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 under NDPS Act, 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.)