

17.04.2021
Item No.130
Ct.No.28
Subha
Allowed

C.R.M. 1706 of 2021
(Via Video Conference)

In Re: An application for bail under Section 439 Cr.P.C in connection with NCB Crime No. 14/NCB/KOL/2019, complaint dated 23-09-2019 under Sections 25A/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Corresponding to NDPS Case No. 137 of 2019).

In the matter of : **Md. Tahirul Islam** ... Petitioner.

Mr. Ali Ahsan Alamgir
... For the Petitioner.

Mr. Y. J. Dastoor, Ld. A. S. G.,
... For the NCB.

The present application under Section 439 of the code of Criminal Procedure has been preferred by the petitioner in connection with NCB Crime No. 14/NCB/KOL/2019, complaint dated 23-09-2019 under Sections 25A/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Corresponding to NDPS Case No. 137 of 2019).

Mr. Dastoor, learned Additional Solicitor General is present in court. As such, we decided to communicate

with the learned advocate appearing for the petitioner in this case over phone who was not virtually available.

Mr. Alamgir, learned counsel appearing for the petitioner has been contacted successfully over mobile phone and he has submitted on behalf of the petitioner that the recovery in the instant case are not contraband and are controlled substances. He further submits that the present petitioner was not in possession of the substances, which have been recovered at the instance of the Investigating Authority.

Additionally, he submits that the principal accused namely, Shariful Islam @ Md. Shariful Islam @ Sariful Islam has already been granted bail by a Co-ordinate Bench of this court in CRM 7996 of 2020 vide order dated 17-11-2020.

Mr. Dastoor, learned Additional Solicitor General appearing for the Narcotic Control Bureau submits that the next dates for recording of evidence have been fixed on 06-05-2021, 07-05-2021 & 10-05-2021 respectively and the release of the petitioner at this stage may cause impediment in the progress of the trial.

We have considered the materials available against the present petitioner and having regard to the fact that another co-accused has been granted bail as also the fact that, prima facie, the provisions of Section 37 of the NDPS Act are not attracted in the present case, we are of the

opinion that further detention of the present petitioner is unwarranted.

Having regard to the same, we allow the prayer for bail of the present petitioner.

Accordingly, the present petitioner namely, **Md. Tahirul Islam** shall be released on bail upon furnishing a 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 NDPS cum learned Additional District Judge, 5th Court, at Berhampore, Murshidabad and to comply with the provisions of Section 437(3) of the Code of Criminal Procedure.

The petitioner shall make himself available on the dates fixed by the learned special court for trial and in case the petitioner is not available without any justifiable case, the learned trial court would be at liberty to cancel the bail without any further reference to this Court.

With the aforesaid observations, the application for bail being CRM 1706 of 2021 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

(Soumen Sen, J.)