

21-04-2021

Item no.20
Court No. 28
Subha
Rejected

IN THE HIGH COURT AT CALCUTTA
Criminal Miscellaneous Jurisdiction

C.R.M 1801 of 2021

Halim Kazi @ Abdul Halim Kazi

-vs-

The State of West Bengal
(Via video-conference)

In Re: An application for bail under Section 439 CrPC in connection with NDPS Case 254 of 2019 corresponding to NCB Crime No.24/NCB/KOL/2019 under Sections 21(c)/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Manjit Singh
Mr. Angshuman Chakraborty

...for the petitioner.

Mr. Y. J. Dastoor, learned Additional Solicitor General
.....for the NCB.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner NDPS Case 254 of 2019 corresponding to NCB Crime No.24/NCB/KOL/2019 under Sections 21(c)/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Singh, learned advocate appearing for the petitioner submits that the petitioner has been arrested on 28th February, 2020 pursuant to the statement of a co-accused recorded under Section 67 of the NDPS Act.

Learned advocate for the petitioner submits that there is no

recovery from the present petitioner and the judgement of the Hon'ble Apex Court in *Tofan Singh –Vs- State of Tamil Nadu* reported in 2020 SCC OnLine SC 882 clearly applies in the facts and circumstances of the present case.

Additionally, he submits that on any stringent condition, the petitioner may be released on bail.

Mr. Dastoor, learned Additional Solicitor General appearing for the NCB submits that the present petitioner is the kingpin of the offence and it is on his direction the contraband are collected in violation of the provisions of law.

According to the learned Additional Solicitor General appearing for the NCB that it is not only the statement recorded under Section 67 of the Code of Criminal Procedure but also the CDRs(Call Details Record) showing telephonic communication between the accused and the petitioner on or about time of the commission of the offence which corroborates the facts of the present case.

To rebut such submission, Mr. Singh, learned advocate for the petitioner submits that the person who has been cited as a witness happens to be the employee of the present petitioner and there are only 25 calls within a period of one month. The present stage of the case is at the stage of consideration of charge and the confession of the petitioner is corroborated by telephonic conversions and other co-accused persons prior to the incident. The earlier order which has been referred to being CRM 8026 of 2020 which categorically states regarding the provisions of law, its applicability and the consequences of subsequent retractions.

Having regard to the huge quantum of contraband so recovered and the observations made earlier by a Co-ordinate Bench, we are of the opinion that the provisions of Section 37 of the NDPS Act are attracted and as such, the present petitioner is not entitled to be released on bail and the prayer for bail of the petitioner is rejected.

The application for bail, being CRM 1801 of 2021 is, accordingly, dismissed.

[Tirthankar Ghosh, J]

[Tapabrata Chakraborty, J]