

CRM 2450 of 2021

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Case No. **36 of 2017** corresponding NCB Crime No. 43/NCB/KOL/2017 under Sections **8c and 20(b)(i)(c)/29** of the NDPS Act.

- A n d -

In the matter of : Jaydeb Sarkar

.... Petitioner.

Mr. S. Chatterjee,
Mr. Subhajit Chatterjee,
Mr. M. K. Biswas,

... For the Petitioner.

Mr. Y. J. Dastoor, Ld. ASG,
Mr. P. Edulji,
Mr. R. K. Shah,

... For the UOI.

Admittedly, there was no recovery of contraband item from the petitioner. His name has transpired from statements made by co-accused persons from whom recovery was made. Since there was no recovery from the petitioner, the restrictions in Section 37 of the Narcotic Drugs and Psychotropic Substance Act, 1985 would not be attracted. The petitioner has been in custody for over 2 years and 6 months.

The Narcotics Control Bureau says that 3 out of 10 witnesses have been examined. However, it is not in dispute that there was no recovery from the petitioner and that the petitioner has been implicated on the basis of statements made by co-accused persons.

On an overall assessment of the material on record and the facts and circumstances of the case, we are of the view that the petitioner may be enlarged on bail.

Accordingly, we direct that the petitioner, namely, **Jaydeb Sarkar** 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 NDPS Act, Burdwan and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

The application for bail is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(**Bivas Pattanayak, J.**)

(**Arijit Banerjee, J.**)