

02.09.2021

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Ct. No. 29
sdas
Allowed

C.R.M. 5606 of 2021
(Via Video Conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Serampore Police Station Case No. 403 of 2019 dated 12.09.2019 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re : Avijit Nath @ Abhijit Nath @ Habu petitioner

Mr. Sudip Ghosh Chowdhury
.....for the petitioner

Mr. Ranadeb Sengupta
....for the State

Petitioner seeks bail.

Learned advocate appearing for the petitioner submits that the petitioner seeks parity with that of the co-accused who was granted bail on August 17, 2020. He further submits that no narcotic substance was recovered from the possession of the petitioner. The petitioner was named by a co-accused. Such evidence is inadmissible. He also draws the attention of the Court to an order dated October 19, 2020 by which, another Co-ordinate Bench granted bail to another co-accused.

Learned advocate appearing for the State submits that the commercial quantity of narcotic substance was recovered from Sk. Salauddin who named the petitioner as the person who was to receive such narcotic substance.

In the facts of the present case, two of the co-accused persons were granted bail by a Co-ordinate Bench on August

17, 2020 and October 19, 2020. Anish Bhajan @ Bunty was granted bail on August 17, 2020 on the ground that no narcotic substance was recovered from his possession and that his complicity transpired from the statement of the co-accused before a police officer which was inadmissible in evidence.

In the present case, no narcotic substance was recovered from the possession of the petitioner. His complicity transpires from a statement of the co-accused made before the police officer which is inadmissible in evidence.

In such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Considering such circumstances and considering the fact that the petitioner can justifiably claim parity with Anish Bhajan @ Bunty and considering the period of detention suffered by the petitioner, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two registered sureties of like amount each, to the satisfaction of the learned Judge, Special Court under NDPS Act, Hooghly, subject to condition that 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 appear before the trial court without justifiable cause, the trial court shall be at liberty

to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)