

22.09.2021
Serial no. 01
Dd

(Through Video Conference)

CRM 5710 of 2021

In re : An Application for **Bail** under Section **439** of the Code of Criminal Procedure filed on **24th August, 2021** in connection with **N.C.B Crime No. 36/ NCB/KOL/2017** dated **28.05.2017** under **Sections 8(c) and 21 (c)** of the Narcotic Drugs and Psychotropic Substances Act, 1985 being N.D.P.S. Case No. 67/2017.

-And-

In the matter of : Akhilesh Tiwari

... ...Petitioner

Mr. Ayan Bhattacharjee,
Mr. Anand Kesari Advocates
... ... For the **Petitioner**

Mr. Y. J. Dastoor, Ld. ASG
Mr. Phiroze Edulji,
Ms. Rajashree Kundalia, Advocates
... ...For the Union of India

Petitioner seeks bail.

Learned advocate appearing for the petitioner submits that nothing was recovered from the possession of the petitioner. The petitioner was taken into custody on the basis of the statements of the co-accused. He draws the attention of the Court to the order dated August 14, 2018 passed in N.D.P.S.- 67 of 2017 by which the co-accused was granted bail. Referring to the contents of such order of bail, he submits that there is a finding returned by the court granting bail with the Call Detailed Recording (CDR) between the co-accused and the petitioner do not substantiate that the petitioner was involved in the illicit trafficking of the medicine drugs.

Learned Additional Solicitor General opposes the prayer for grant of bail. He submits that the consignment of

medicine was meant for the petitioner and that such consignment was found at Sealdah Railway Station instead of consignment reaching the petitioner.

Considering the materials available in the case diary and considering the fact that nothing was recovered from the possession of the petitioner and considering the order dated August 14, 2018 granting bail to the co-accused, we are of the view that the petitioner is able to rebut the presumption under section 37 of the NDPS Act. Consequently, 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- (Rupees Ten Thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, Alipore subject to condition that the petitioner shall appear before the learned trial court on every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.

In the event, the petitioner fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel the bail of the petitioner in accordance with law without further reference to this Court.

The prayer for bail is **allowed**.

CRM 5710 of 2021 is **disposed of**.

(Debangsu Basak, J.)

(Ananda Kumar Mukherjee, J.)