

09.12.2021
Sl. No.4
akd
[ALLOWED]

C. R. M. 6665 of 2020 [via video conferencing]

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Jalangi Police Station Case No.846 of 2019 dated 10.12.2019 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No. 230 of 2019)

And

In Re: ***Sajedul Islam @ Titu & Ors.***

... .. Petitioners

Mr. Sekhar Kr. Basu .. Sr. Advocate
Mr. Diptangshu Basu
Ms. Suchismita Dutta

... .. for the petitioners

Mr. Ranabir Roy Chowdhury
Mr. Sandip Chakraborty

... .. for the State

Petitioners pray for statutory bail. Petitioner no.1 was arrested on 10.12.2019 and petitioner nos.2 & 3 were arrested on 13.12.2019. Statutory period of investigation as per Section 36-A(4) of the NDPS Act expired on 07.06.2020 and 11.06.2020 respectively. However, prayer was made for extension of the period of detention by the Public Prosecutor on 5th June, 2020. Such prayer came to be allowed on 16th June, 2020 and the statutory period of detention was extended till 15th August, 2020.

Mr. Sekhar Basu, learned senior advocate appearing for the petitioners submits that prior to 15th August, 2020 no prayer for further extension was sought for. His clients prayed for statutory bail on 17th August, 2020. During pendency of such application, police report was filed on 14th September, 2020.

Learned advocate appearing for the State submits that the statutory period of detention was extended initially till 15th August, 2020.

We have considered the materials on record. Statutory period of detention as per Section 36-A(4) of the NDPS Act expired on

07.06.2020 and 11.06.2020 respectively. Prior to expiry of the said period application for extension as per proviso to Section 36-A(4) of the NDPS Act was made and the same came to be allowed on 16th June, 2020. However, the period was extended till 15th August, 2020 and no further extensions have been sought for. Thus, on or after 15th August, 2020 the petitioners were entitled to statutory bail and had in fact availed such relief. In view of the aforesaid fact and the law declared in ***Uday Mohan Lal Acharya vs. State of Maharashtra***¹, subsequent filing of police report would not whittle down the right to statutory bail which has already been filed prior to submission of police report. Hence, we are inclined to grant bail to the petitioners.

Therefore, the accused/petitioners, namely **(1) Sajedul Islam @ Titu, (2) Sohikul Molla @ Deluwar & (3) Sukur Mondal**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only) each, 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, 1985, Berhampore, Murshidabad subject to condition that the said petitioners shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever or commit similar offences in future.

In the event they fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail automatically without reference to this court.

The application for bail, thus, stands **allowed**.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)

¹ (2001) 5 SCC 453

