

14.07.2021
Court No.30
Item No. 22
Krishnendu
Bail Granted

**CRM 11054 of 2020
(Via video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : **Sunny Hela**

Petitioner

Mr. Manjit Singh,
Mr. Gaganjyot Singh

For the Petitioner

Mr. Y.J.Dastoor, Id. A.S.G.
Mr. Phiroze Edulji
Mr. Sagar Saha

For the N.C.B.

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with NDPS Case No. N-127/2018 corresponding to NCB Crime No.33/2018 under sections 20(b)(ii)(C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

Mr. Singh, learned advocate appearing for the petitioner submits that the petitioner has been falsely implicated. There had been no recovery of any contraband substance from his possession. Upon completion of investigation, charge-sheet has also been filed and as such further detention of the petitioner, who is in custody since 10th July, 2018, is not necessary.

He further submits that the petitioner has been roped in only on the basis of statements of co-accused persons, as recorded under section 67 of the NDPS Act, which are inadmissible in law in view of the judgment delivered by the

Hon'ble Supreme Court in the case of *Tofan Singh – Vs- State of Tamil Nadu*.

Mr. Dastoor, learned Additional Solicitor General appearing on behalf of the NCB opposes the petitioner's prayer and submits that there are incriminating materials on record against the petitioner.

In *Tofan Singh (supra)*, it has, *inter alia*, been held that the confessional statements under section 67 of the NDPS Act are inadmissible in law. Save and except the confessional statements, *prima facie*, there is no other substantive material evidence against the petitioner.

In the present pandemic situation and rapid proliferation of the virus, prayer for bail needs to be considered liberally unless custodial interrogation is absolutely necessary [See the order passed by the Hon'ble Supreme Court in **Re: Contagion of Covid-19 Virus in Prisons**].

In the said conspectus, we are of the opinion that further detention of the petitioner is not warranted in the facts and circumstances of the case, more so, when upon completion of investigation charge sheet has also been submitted.

Accordingly, we allow this application and direct that the petitioner, namely, **Sunny Hela** shall be released on bail upon furnishing a bond of ₹20,000/- with two sureties of like amount each, one of whom must be a local, to the satisfaction of the learned Additional Sessions Judge, 6th Court (under NDPS Act) Barasat, North 24-Parganas and on condition that he shall reside

at Baguihati and shall not leave the jurisdiction of Baguihati Police Station save and except for attending the learned trial court on all the dates, as fixed for hearing.

The petitioner shall also meet the Officer-in-Charge of Baguihati Police Station once a fortnight until further orders.

It is made clear that in the event the petitioner fails to comply with the aforesaid directions without any justifiable cause, the learned trial court would be at liberty to cancel the petitioner's bail without any further reference to this Court.

With the aforesaid observations, the application for bail, being CRM No. 11054 of 2020, is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Suvra Ghosh, J)

(Tapabrata Chakraborty, J)