

16.06.2022.
09.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 634 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with N Case No.53 of 2020 arising out of NCB Crime No.12/NCB/KOL/2021 dated 07.04.2021 under Sections 8(C) read with Section 20(b)(ii)(C)/28/29 of the N.D.P.S. Act.

In the matter of : Asim Mridha @ Asim Mirdha.

.... Petitioner.

Mr. Arka Chakraborty.

...for the Petitioner.

Mr. Rajesh Kr. Shah.

...for the NCB.

Heard the learned Counsels appearing on behalf of the parties.

Petitioner is in custody for about one year and two months. He stands on the same footing with the co-accused who has been enlarged on bail.

Learned Additional for the State opposes the prayer for bail.

We have considered the materials on record. No narcotic substance was recovered from the possession of the petitioner. Statement of petitioner and co-accuseds recorded under Section 67 of NDPS Act are inadmissible in view of law declared in ***Tofan Singh Vs. State of Tamil Nadu***¹.

In view of the aforesaid fact and the slender evidence relating to telephonic communication between petitioner and co-accuseds obtained from the CDRs which is not corroborated by other incriminating circumstances, we are of the view

¹ (2021) 4 SCC 1

petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be granted bail.

Accordingly, the petitioner 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 N.D.P.S. Act, Barasat, North 24-Paraganas subject to condition that he 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.

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

This application for bail is, thus, disposed of.

(Ananya Bandyopadhyay,J.)

(Joymalya Bagchi, J.)