

16.06.2022

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Allowed

C.R.M. (NDPS) 641 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 79/2021/NCB/KOL/2021 dated 25.11.2021 under Sections 8(c) read with Sections 22(c)/28/29 of the NDPS Act.

And

In Re : Molla Basir Ahmed @ Molla Basir Ahammed petitioner

Mr. Satarup Purokasthya

Mr. Amanul Islam

Mr. Sourav Mukherjee

.....for the petitioner

Mr. Amajit De

....for the NCB

Petitioner is in custody for 201 days.

Learned Counsel appearing for the petitioner submits that he is a medical representative and did not play any role in the alleged illegal transaction in narcotic substance. Co-accused Abhijit Deb has been granted bail by this Court.

Learned Counsel appearing for the NCB opposes the prayer for bail. He submits there were telephonic conversations between the petitioner and co-accused from whom narcotic substance above commercial quantity, was recovered. Petitioner admitted his guilt in his statement under Section 67 of the NDPS Act.

We have considered the materials on record. No narcotic substance was recovered from the petitioner. Statement under

Section 67 of the NDPS Act is inadmissible in law in the light of ***Tofan Singh Vs. State of Tamil Nadu***¹. Apart from telephonic conversations, no other material connecting the petitioner with the alleged transaction is placed on record. Prayer for bail of the petitioner was rejected earlier. But there is no progress in the matter since the rejection of bail by this Court. On the other hand, co-accused Abhijit Deb has been granted bail.

In view of the aforesaid facts, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and considering the protracted period of detention suffered by the petitioner i.e. 201 days and as investigation is complete, 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 sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Krishnanagar, Nadia, 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.

¹ (2021)4 SCC 1

The application for bail is, accordingly, allowed.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)