

16.08.2022
cm/ct 28
sl no. 5

C.R.M. (NDPS) No. 907 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with NDPS Case No. 41 of 2021 arising out of Seizure Case No. 03/NDPS/CL/BCPU/CCP/WB/2020-21 dated 02.03.2021 under Sections **21 (c)/29** of the Narcotic Drugs and Psychotropic Substances Act.

And

Allowed

In Re : Sk. Pintu @ Hola @ Pintu Sk.

..... petitioner

Mr. Biswajit Sarkar

..... for the petitioners

Mr. Vipul Kundalia

Ms. Ekta Sinha

Mr. A. Roy

..... for the Customs Authority.

Petitioner is in custody for 222 days. It is contended no narcotic substance was recovered from his possession.

Mr. Kundalia, learned advocate for the customs authority opposes the prayer for bail.

We have considered the materials on record. Petitioner has been implicated on the basis of statement of co-accused before a custom officer which is inadmissible in evidence in view of **Tofan Singh Vs. State of Tamil Nadu**¹. No other incriminating material has transpired against the petitioner during investigation.

Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and he may be granted bail.

Accordingly, the petitioner be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount

¹ (2021)4SCC 1

each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Berhampore, Murshidabad on condition that the petitioner shall appear before the trial court on every date of hearing and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application being CRM(NDPS) No. 907 of 2022 is disposed of.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)