

28.11.2022
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1395 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.11.2022 in connection with NDPS Case No.44 of 2022 arising out of NCB Crime No.03/NCB/KOL/2022 dated 01.02.2022 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.

And

In Re: ***Sachin Mondal @ Shachin Mandal @ Sachin Mandal***
... .. Petitioner

Mr. Pradip Kumar Kundu
... .. for the petitioner

Mr. Kallol Mondal
Mr. Pritam Roy
... .. for the NCB

It is submitted on behalf of the petitioner that he is in custody for about 201 days. It is further submitted no narcotic substance was recovered from his possession.

Learned advocate appearing for the NCB opposes the prayer for bail and submits there were telephonic conversations between the petitioner and co-accused who supplied narcotic substance. Statements of the petitioner and co-accused under Section 67 of the NDPS Act implicate him in the crime.

We have considered the materials on record. In view of ***Tofan Singh vs. State of Tamil Nadu***¹, statements under Section 67 of the NDPS Act are not admissible in law. Apart from telephonic conversations between petitioner and co-accused (contents whereof are unknown), there are no materials connecting him with the transaction. In view of the aforesaid slender material on record, 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 enlarged on bail.

¹ (2021) 4 SCC 1

Therefore, the accused/petitioner, namely **Sachin Mondal @ Shachin Mandal @ Sachin Manda**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), 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-cum-Additional District Judge, 5th Court, Berhampore, Murshidabad subject to condition that the said petitioner 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 he fails to appear before the trial court without any justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

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

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)