

07.12.2022

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Allowed

C.R.M. (NDPS) No. 1452 of 2022

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 05/NCB/KOL/2022 under Section 8(c) read with Sections 21(c)/29 of the NDPS Act.

And

In Re : Md. Khan Shah @ Furkhan petitioner

Mr. Soubhik Mitter
Ms. Rajnandini Das

.....for the petitioner

Mr. Anirban Mitra

....for the NCB

Heard the learned Counsels appearing for the parties.

Petitioner is in custody for 258 days. No narcotics was seized from him. Though CDRs (Call Data Records) show telephonic communications between the petitioner and the co-accused, no other incriminating material corroborating the charge of conspiracy is placed before us. Petitioner co-operated with investigation. His statement under Section 67 of the NDPS Act was recorded but the statement is inadmissible in law. Under such circumstances, petitioner appears to have rebutted the statutory restrictions under Section 37 of the NDPS Act and as he co-operated during investigation, we are inclined to release him on bail.

Accordingly we direct that the petitioner viz. Md. Khan Shah @ Furkhan 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, Krishnagar, Nadia, subject to further condition that he shall not leave the territorial jurisdiction of the said police station without the leave of the Court or the Magistrate and shall meet the Officer-in-Charge of the Police Station concerned once in a week until further orders. 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.

The application for bail is, accordingly, allowed.

(Siddhartha Roy Chowdhury, J.)

(Joymalya Bagchi, J.)