

19.04.2023
Sl. No.27
akd
[ALLOWED]

C. R. M. (NDPS) 807 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.04.2023 in connection with Balurghat Police Station Case No.294 of 2022 dated 27.04.2022 under Sections 21(c)/22(c)/23(c)/25/27A/28/29 of the NDPS Act.

And

In Re: ***Jhantulal Chakraborty @ Bitla***

... .. Petitioner

Mr. Jayanta Narayan Chatterjee
Mr. Kaushik Choudhury
Ms. Busra Khatoon

... .. for the petitioner

Mr. T. D. Nandy
Mr. Antarikhya Basu

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for over 100 days. It is further submitted no narcotics was recovered from his possession. He was not present at the place of occurrence. Co-accused viz. Jiban Debnath @ Debanath has been enlarged on bail. Accordingly, petitioner prays for bail.

Learned Advocate for the State opposes the prayer for bail and submits petitioner had telephonic conversations with co-accused from whom narcotics was recovered. He has criminal antecedents.

We have considered the materials on record. No narcotics was recovered from the petitioner. Apart from Call Detail Records (CDRs.) showing telephonic conversations (*contents whereof are unknown*) between petitioner and co-accused, no legally admissible evidence to connect him with the crime has been collected during investigation. Owner of the vehicle which was used to transport narcotics has been enlarged on bail. Petitioner does not stand on the same footing with co-accused viz. Rinku Dey Sarkar and Pintu Dey

Sarkar against whom in addition to CDRs. other legally admissible evidence have also been adduced. Under such circumstances, we are of the opinion petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Keeping in mind the aforesaid fact and the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Jhantulal Chakraborty @ Bitla***, 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, 3rd Court, Balurghat, Dakshin Dinajpur 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.)