

05.07.2023
Sl. No.17
akd
[Rejected]

C. R. M. (NDPS) 1001 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 10.05.2023 in connection with NCB Crime No. 03/NCB/KOL/2023 under Sections 8(c)/20(b)(ii)(c)/29 of the NDPS Act. (NDPS Case No.1 of 2023)

And

In Re: **Sk. Rajesh**

... .. Petitioner

Mr. Debasis Roy
Mr. Pawan Kumar Gupta
Ms. Sofia Nesar
Mr. Santanu Sett
Mr. Abhijit Bose

... .. for the petitioner

Mr. Kallol Mondal

... .. for the NCB

It is submitted on behalf of the petitioner that he is in custody for more than 120 days. It is further submitted no narcotics was recovered from his possession. Investigation is complete. Accordingly, he prays for bail.

Learned Advocate for the NCB opposes the prayer for bail and submits petitioner made statement before NCB officials under Section 67 of the NDPS Act disclosing the involvement of the co-accused. Thereafter, co-accused were arrested with narcotics. Call Detail Records (CDRs.) also show frequent communications between the petitioner and co-accused at the time of occurrence. Investigation is in progress.

We have considered the materials on record. Petitioner was interrogated by NCB officials. He made statement disclosing identity of co-accused and the manner of transportation of narcotics. Disclosure statement led the NCB team to recover narcotics from the co-accused. In this factual backdrop, we are of the view the statement of the

petitioner, though under Section 67 of the NDPS Act, leads to discovery of a fact and may be admissible under Section 27 of the Evidence Act. The aforesaid statement finds corroboration through the CDRs. collected during investigation. CDRs. show frequent communications between the petitioner and co-accused on or about the time of occurrence.

Under such circumstances and as the recovery is above commercial quantity which attracts the statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner.

The application for bail is thus rejected.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)