

18.05.2023  
tkm/ct 28  
sl no. 11

**C.R.M. (NDPS) 1021 of 2023**

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with NCB Crime no. 20 of 2022 under section 8(c) read with sections 15(c)/18(c)/29/35/54 of the NDPS Act  
and

**Allowed**

In Re : Amit Kumar @ Amit Kumar Keshari @ Saiful  
..... petitioner

Mr. Soubhik Mitter  
Mr. Litan Maitra  
Mr. K K Bhattacharjee  
Ms. R Das

..... for the petitioner

Mr. Kallol Kumar Basu

..... for the NCB

Leave to correct the cause title of the petition.

Petitioner is in custody for 127 days. It is contended no narcotics was recovered from his possession. Investigation is complete. He prays for bail.

Learned lawyer for the NCB submits petitioner had supplied poppy straw to co-accused. He admitted his role in his statement under section 67 of the NDPS Act. Such statement is also corroborated by co-accused. CDRs show telephonic communication between the petitioner and co-accused.

We have considered the materials on record. No narcotics was recovered from the petitioner. In view of *Tofan Singh vs. State of Tamil Nadu*<sup>1</sup> statement of the petitioner and co-accused are inadmissible in law. Apart from the slender material i.e. CDRs showing telephonic communication (contents whereof are unknown) there is no other legally admissible evidence connecting the petitioner with the crime.

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<sup>1</sup> (2021) 4 SCC 1

Under such circumstances, on a prima facie examination of the materials we are of the view petitioner has been able to rebut statutory restrictions under section 37 of the NDPS Act and he may be enlarged on bail.

Accordingly, the petitioner 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, Bench-I under NDPS Act, City Sessions Court, Calcutta 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 he 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) 1021 of 2023 is disposed of.

**(Ajay Kumar Gupta, J.)**

**(Joymalya Bagchi, J.)**