

05.07.2023

77
sdas
Allowed

C.R.M. (NDPS) No. 1215 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure arising out of NCB Crime No. 17/NCB/KOL/2021 dated 23.05.2021 under Sections 21(C)/28/29 of the N.D.P.S. Act and Section 8(C) of the NDPS Act.

And

In Re : Mahadev Karmakar petitioner

Mr. Amitabha Bhowmick

Mr. Arup Kumar Bhowmick

.....for the petitioner

Mr. Kallol Mondal

.....for the NCB

Learned Counsel for the petitioner submits no narcotics was recovered from his possession. Co-accused, similarly circumstanced with the petitioner has been enlarged on bail. He prays for bail.

Learned Counsel for the NCB opposes the prayer for bail.

We have considered the materials on record. No narcotic was recovered from the petitioner. Statement of co-accused before NCB officials is inadmissible in law in view of the law declared in ***Tofan Singh Vs. State of Tamil Nadu***¹. Co-accused has been granted pre-arrest bail. Accordingly, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two

¹ (2021) 4 SCC 1

sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Malda, subject to conditions that 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.

In the event petitioner fails to appear before the trial court without any 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.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)