

05.09.2023.
07.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 1424 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.201 of 2021 arising out of Seizure Case No.08/BDPS/CL/Ganja/BCPUCCP/WB/2020-21 dated 18.09.2021 under Sections 20(C)/29 of the NDPS Act.

In the matter of : Samrat Roy.

.... Petitioner.

Mr. Arnab Chatterjee,
Ms. Dhanasree Biswas,
Ms. Poulami Bose.

...for the Petitioner.

Mr. Bhaskar Prosad Banerjee,
Mr. Tapan Bhanja.

...for the Customs Authority.

1. Petitioner is in custody for about two years. He contends no narcotics was recovered from his possession. He prays for bail.
2. Learned Advocate for the Customs submits petitioner had entered into conspiracy with co-accused to transport narcotics above commercial quantity. Owner of the vehicle made statement before Customs Officer that he had handed over the narcotics to the petitioner who used it for transportation.
3. We have considered the materials on record. In *Tofan Singh Vs. State of Tamil Nadu*¹, the Hon'ble Apex Court held statement of an accused before Customs Officers under Section 67 of the NDPS Act is inadmissible. No legally admissible material in the form of money trail is placed before us to

¹ (2021) 4 SCC 1

support the allegation of conspiracy between petitioner and co-accused in narcotics trade. Admittedly, vehicle used for transportation of narcotics does not stand in his name. Nor any narcotics was recovered from him.

4. Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail.

5. Accordingly, the petitioner viz., Samrat Roy 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 the N.D.P.S. Act, Murshidabad at Berhampore subject to condition that he 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.

6. In the event the 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.

7. This application for bail is, thus, disposed of.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

