

**C. R. M. (NDPS) 1503 of 2023**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.09.2023 in connection with NCB Crime No. 01/NCB/KOL/2023 under Sections 8(c)/20(b)(ii)(c) of the NDPS Act. (NDPS Case No. 1 of 2023)

And

In Re: **Rudra Behera**

... .. Petitioner

Mr. Kunal Ganguly  
Ms. Jenifar Alam Megha

... .. for the petitioner

Mr. Kallol Kumar Basu  
Mr. Debapriya Samanta

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about 103 days. It is further submitted no narcotics was recovered from his possession. Investigation is complete. Accordingly, he prays for bail.
2. Learned Advocate for the NCB opposes the prayer for bail and submits petitioner is the ringleader. He made frequent phone calls from the mobile phone of co-accused from whom narcotics above commercial quantity was recovered. Statements of the petitioner and co-accused under Section 67 of the NDPS Act disclose his involvement.
3. We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. Statements under Section 67 of the NDPS Act are inadmissible in view of the law declared in **Tofan Singh vs. State of Tamil Nadu<sup>1</sup>**.

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

4. Prosecution therefore, is left with the telephonic communications as derived from Call Detail Records (CDRs.) collected during investigation. Contents of such conversation are not known. In view of the scanty materials on record implicating the petitioner in the crime, we are of the opinion he has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. Accordingly, petitioner may be enlarged on bail however, subject to strict conditions.
5. Therefore, the accused/petitioner, namely **Rudra Behera**, 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 Sessions Judge, Hooghly 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 and on further condition that the petitioner, while on bail, shall remain within the district of Hooghly and shall provide the address where he shall presently reside to the Investigating Agency as well as the court below and shall report to the Officer-in-charge of the police station concerned within whose jurisdiction he shall presently reside once in a week until further orders.
6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

