

05.10.2023
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allowed

CRM(NDPS) No. 1603 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 05/NCB/KOL/2020 dated 08.01.2020 under Sections 8(c) read with 21(c)/29 of the NDPS Act.

And

In Re : Sajahan Sardar petitioner

Mr. Milon Mukherjee, Sr. Adv.

Mr. Somnath Banerjee

Mr. Pronojit Roy

....for the petitioner

Mr. Arun Kumar Maiti (Mohanty)

Mr. Pradyot Saha

.... for the NCB

1. Learned senior Counsel for the petitioner submits he is in custody for eight months. It is also submitted that no narcotics was recovered from his possession. He has been falsely implicated. Investigation is complete. Accordingly, he prays for bail.

2. Learned Counsel for the NCB opposes the bail prayer and submits petitioner has criminal antecedents. He did not co-operate with the investigation and even resisted his arrest. Upon being arrested in connection with another case he was shown arrested in the present case. Trial is about to commence. Accordingly, bail prayer of the petitioner may be refused.

3. We have considered the materials on record. No narcotics was recovered from the possession of the petitioner. Prosecution primarily relies on CDRs showing telephonic conversation between the petitioner and co-accused from whom narcotics above commercial quantity was recovered. Contents of such conversation is not known. Hence, we are of the opinion

materials on record are scanty and ambivalent. But it is contended that petitioner has criminal antecedents and he tried to evade arrest. These issues though disturbing may not be sufficient to justify further detention. Accordingly, we are inclined to release the petitioner on bail by imposing appropriate restrictions instead of continuing his under-trial detention.

4. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.25,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, 6th court, Barasat, North 24-Parganas, on further conditions that while on bail petitioner shall remain within the jurisdiction of Basirhat Police Station except for the purposes of investigation and /or attending court proceeding and shall meet the Officer-in-Charge of the Basirhat Police Station once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)