

09.01.2023
Sl. No.6
akd
[ALLOWED]

C. R. M. (NDPS) 1458 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.12.2022 in connection with NCB Crime No.62/NCB/KOL/2017 dated 13.12.2017 under Sections 8(c)/22(c)/22(a)/24/27/29 of the NDPS Act. (NDPS Case No.291 of 2017)

And

In Re: ***Kamlesh Baste @ Kamlesh Panditrao Baste***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioner

Mr. Anirban Mitra
Mr. Kalidas Saha

... .. for the NCB

It is submitted on behalf of the petitioner that he is in custody for more than four years. It is further submitted narcotic substance recovered from his possession is of small quantity which is bailable. Co-accused viz. Jerome Watson has been enlarged on bail. Bail prayer of the petitioner was rejected earlier on the ground that vital witness with regard to the conspiracy in interstate trafficking of narcotics was yet to be examined. Rasika Rajendra Bandiwadekar (PW11) was examined. She has not supported the prosecution case. Accordingly, petitioner renews his prayer for bail.

Learned Advocate for the NCB submits report. From the report it appears date has been fixed for examination of other witnesses.

We have considered the materials on record. Narcotics recovered from the possession of the petitioner was not of commercial quantity. A vital witness who was examined to prove the involvement of the petitioner in the conspiracy and financing of interstate trafficking of narcotics did not support the prosecution case. Under such circumstances, we are of the opinion petitioner has been able to rebut

the statutory restrictions under Section 37 of the NDPS Act. He has suffered detention for more than four years. Hence, we are of the opinion further detention of the accused/petitioner is not necessary and he may be granted bail.

Therefore, the accused/petitioner, namely ***Kamlesh Baste @ Kamlesh Panditrao Baste***, be released on bail upon furnishing bond of Rs.20,000/- (Rupees Twenty 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 District & Sessions Judge, 6th Court, Barasat, North 24-Parganas 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.

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.

The application for bail, thus, stands **allowed**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)