

02.02.2023
Sl. No.5
akd
[ALLOWED]

C. R. M. (NDPS) 1512 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 21.12.2022 in connection with NDPS Case No. 58 of 2022 arising out of NCB Crime No.07/NCB/KOL/2022 dated 19.02.2022 under Sections 21(c)/23(c)/28/29 of the NDPS Act.

And

In Re: ***Khokan Haldar @ Khokan Sarkar***

... .. Petitioner

Mr. Pradip Kumar Kundu

... .. for the petitioner

Mr. Dipankar Dandapath

Mr. Subrata Santra

... .. for the UOI (NCB)

It is submitted on behalf of the petitioner that he is in custody for about 136 days. It is further submitted no narcotic substance was recovered from his possession.

Report has been filed on behalf of the NCB. From the report it appears date has been fixed for consideration of charge.

We have considered the materials on record. We find that no narcotic substance was recovered from the petitioner. Statement under Section 67 of the NDPS Act relied upon by the prosecution is inadmissible in law.¹ Under such circumstances, we are of the opinion that the petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act. In view of the aforesaid fact and period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary.

Therefore, the accused/petitioner, namely ***Khokan Haldar @ Khokan Sarkar***, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like

¹ (2021) 4 SCC 1 [Tofan Singh vs. State of Tamil Nadu]

amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional District Judge, 5th Court, Berhampore, Murshidabad 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.)