

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

27.03.2023.
01.
as
(Allowed)

C.R.M. (NDPS) 262 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.96 of 2022 arising out of Naxalbari P. S. Case No.220 of 2022 dated 24.08.2022 under Sections 21(b)/22(b) of the Indian Penal Code and charge sheet submitted under Sections 21(b)/22(b) of the NDPS Act.

In the matter of : Jharu Singh @ Jhoru Singh.

.... Petitioner.

Ms. Jeenia Rudra,
Ms. Megha Chanda.

...for the Petitioner.

Mr. Aditi Shankar Chakraborty, Id. A.P.P.,
Mr. Ujjwal Luksom,
Mr. Arjun Chowdhury.

...for the State.

Petitioner had availed of statutory bail prior to the submission of charge sheet. Though he offered to submit bail bond on the same day but due to the agitation of staff, he was unable to furnish the bond. Hence, he was not released on bail on that date. On the subsequent day, charge sheet was filed and bail was denied to him.

Learned Advocate for the State disputes such fact. He submits petitioner did not furnish bond and the police report came to be filed on the subsequent date. He is not entitled to bail.

We have considered the materials on record. In ***M. Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence***¹, the Apex Court, inter alia, held once the accused avails of his right to statutory bail prior to submission of police report, the right crystallises and cannot be defeated by subsequent submission of a police report. In the present case, petitioner had availed of his right to statutory bail and an order granting statutory bail was passed in his favour. Whatever be the reason, petitioner was unable to furnish the bond on that date. On the next day, police report was filed and the court refused to accept the bond on such ground. Since the right to statutory bail had already been availed of and granted in favour of the petitioner, non-furnishing of bond on his part would not deny him the right which had already crystallised on the premise that police report was subsequently filed.

Hence, we are of the opinion petitioner is entitled to statutory bail. It is also contended petitioner was unable to furnish heavy bond amount.

Accordingly, the petitioner viz., Jharu Singh @ Jhoru Singh 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 NDPS Act, 2nd Court, Siliguri subject to condition that he shall appear before the trial court on every date of hearing until further orders and shall not intimidate

¹ (2021) 2 SCC 485

witnesses or tamper with evidence in any manner whatsoever and on further condition that the petitioner while on bail shall remain within the district of Darjeeling and shall report to the Officer-in-charge, Naxalbari Police Station once in a week until further orders.

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.

The application for bail is, thus, disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)