

13.06.2023
Court No.01
Item No. 40
Allowed

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

ar

CRM (NDPS) 293 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Madarihat Police Station Case No. 193 of 2022 dated 16.11.2022 under Section 21(c)/25/29 of NDPS Act.

And

In Re: **Amirul Islam @ Lipon Haque @ Anninul Islam**

Petitioner

Mr. Sandip Dutta

For the Petitioner

Mr. Aditi Shankar Chakraborty, Ld APP

Mr. Arjun Chowdhury

For the State

Learned counsel for the petitioner submits that the petitioner is in custody since 18th Fenruary, 2022 and has been falsely implicated.

It is submitted that he was arrested on the basis of the statement made by co-accused, which is inadmissible.

Learned counsel for the State in opposing the prayer for bail submits that the co-accused has been denied bail by a coordinate bench and the present petitioner is on the same footing as that of the co-accused Rabiul Islam.

Having considered the materials in the case diary and the fact that the name of the petitioner transpired from the statement of the co-accused to a police officer, which is inadmissible in evidence and the fact that the charge-sheet has been filed and we are of the view that the custody and interrogation of the

petitioner is no more required. Accordingly, we allow the application for bail subject to fulfillment of the following conditions:

- i) The petitioner 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 subject to satisfaction of learned Chief Judicial Magistrate;
- ii) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever;
- iii) The petitioner shall not leave the station without the permission of the learned Special Judge, NDPS Court;
- iv) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer;
- v) The petitioner shall attend the trial on every hearing, unless exempted in accordance with law;
- vi) The petitioner shall inform the Special Judge as well as the Officer-in-Charge of the Police Station about his place of residence during bail and trial. Any change in the same shall also be communicated within 48 hours thereafter. Petitioner shall furnish details of his Aadhaar Card, Telephone Number, E-mail, PAN Card, bank Account Number, if any. The petitioner shall surrender his passport to the learned Trial Court. In the event he does not hold any passport, he shall file an affidavit to that effect before the learned Trial Court;

vii) The petitioner shall not indulge in any criminal activities. It is made clear that in case the petitioner is arraigned as an accused in future in any FIR, then this bail is liable to be cancelled. It is open for the Investigating Agency to move appropriate application in that regard. This shall also be considered as a negative factor for consideration of his future bail application, if any.

We, however, make it clear that the observations made are only prima facie and it is needless to mention that this order shall not influence the trial in any manner whatsoever.

The application for bail of the petitioner is allowed. CRM (NDPS) 293 of 2023 is accordingly, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J)

(Soumen Sen, J)