

12.07.2023
Item no.80
Court No.1.
AB
(Allowed)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

CRM (NDPS) No. 481 of 2023

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.34 of 2018 arising out of NCB Crime No.44/NCB/KOL/2018 under Section 20(b)(ii)(C)/29 of the NDPS Act

And

In the matter of : Siddik Rahul Rana @ Siddique Rahul Rana

.....Petitioner.

Mr. Sabir Ahmed,
Mr. Hillol Saha Poddar,
Ms. Mousumi Dasfor the Petitioner.

Mr. Sudipto Kr. Majumdar, ld. DSG
Mr. Sudip Kumar Paulfor the NCB.

Heard learned Advocate for the petitioner and learned Deputy Solicitor General for the NCB at length.

At the very outset, learned Advocate for the accused petitioner draws our attention to the order dated 20.4.21 passed in CRM 332 of 2021 by a Coordinate Bench. It is contended that considering the fact that the present accused petitioner's name transpires from the statement of a co-accused and considering the fact that the present accused petitioner is similarly circumstanced as the co-accused who has already been enlarged on bail by the order dated 20.4.2021, the prayer for bail may be considered favourably.

While opposing the prayer for bail, learned Deputy Solicitor General places reliance upon two reported decisions namely, ***Union of India Vs Khalil Uddin*** reported in **2022(4) RCR (Cri) 984** and ***Indresh Kumar Vs State of UP*** reported in **2022 (3) RCR (Criminal) 1003**. In course of his submission, learned Deputy Solicitor General submits before this Court that in the case of Khalil Uddin (supra), the Hon'ble Apex Court in a similar circumstance rejected the prayer for bail whose complicity in the alleged crime was found on the basis of a co-accused's statement.

We have considered the rival submissions. We have also perused the material in the case diary. We have also gone through the reported decisions cited on behalf of the NCB. In our considered view, the reported decision of Khalil Uddin (supra) is distinguishable in view of the fact that in the said case the respondent was found to be the owner of the vehicle in which contraband articles were alleged to have been carried. So far as the case of Indresh Kumar (supra) is concerned, the same was not a NDPS case.

In view of the above, we are of the view that the aforesaid two decisions cited on behalf of the NCB are not applicable to the facts of the present case.

It appears that by the earlier order dated 20.4.2021 passed in CRM 332 of 2021, one co-accused person was enlarged on bail considering the fact that his arrest was based on the statement of a co-accused. In order to maintain judicial

propriety and comity, we are of the considered view that the present accused petitioner is similarly circumstanced as the accused person already enlarged on bail in the aforementioned case.

Accordingly, we direct that the petitioner, namely Siddik Rahul Rana @ Siddique Rahul Rana shall be released on bail upon furnishing a bond of Rs.10,000/-, with two registered sureties of like amount each, to the satisfaction of the learned Additional Sessions Judge (Special Judge under the NDPS Act), First Court, Jalpaiguri and on further condition that the present accused petitioner shall appear before the Trial Court on each date of substantive hearing subject to the provisions of Section 317 Cr.P.C. till conclusion of trial and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Partha Sarathi Sen, J.)

(Arijit Banerjee, J.)

