

22.01.2024.
02.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 50 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No.20/NCB/KOL/2023 dated 17.06.2023 under Sections 8(C)/9(A)/17(C)/25A of the NDPS Act.

In the matter of : **Indrajit Mandal.**

.... Petitioner.

Mr. Amitabha Karmakar,
Mr. Arup Kr. Bhowmick.

...for the Petitioner.

Mr. Arun Kr. Maiti (Mohanty),
Mr. Haripada Nayak.

...for the NCB.

1. Petitioner is in custody for 98 days. Investigation is complete. No narcotics was recovered from his possession. Accordingly, he prays for bail.

2. Learned Advocate for NCB opposes the bail prayer. He submits statements of co-accused as well as petitioner recorded under Section 67 of the NDPS Act show petitioner supplied raw materials to prepare heroin. He has criminal antecedents.

3. We have considered the materials on record. Involvement of petitioner has transpired from statements recorded under Section 67 of NDPS Act. In **Tofan Singh Vs. State of Tamil Nadu**¹, the Hon'ble Apex Court held statements are inadmissible in law. No legally admissible evidence connecting the petitioner with dealing in narcotics has been placed on record. Investigation is complete and complaint has been filed.

¹ (2021) 4 SCC 1

4. Under such circumstances, we are of the opinion petitioner has been able to rebut statutory restrictions under Section 37 of the N. D. P. S. Act and may be enlarged on bail subject to conditions.

5. Accordingly, the petitioner viz., **Indrajit Mandal** 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 N.D.P.S. Act, Malda subject to condition that he 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 and on further condition that the petitioner while on bail shall remain within the district of Nalda and report to the investigating agency as and when called for.

6. In the event 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.

7. This application for bail is, thus, disposed of.

(Ajay Kumar Gupta,J.)

(Joymalya Bagchi, J.)