

15.01.2024
Sl. No.10
akd
[PARTLY
ALLOWED]

C. R. M. (NDPS) 71 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.01.2024 in connection with NCB Crime No.13/NCB/KOL/2021 under Sections 8(c)/22(c)/29 of the NDPS Act. (NDPS Case No.73 of 2021)

And

In Re: **Piyarul Islam & Anr.**

... .. Petitioners

Mr. Arnab Chatterjee
Mr. Jisan Iqbal Hossain
Ms. Dhanasree Biswas
Ms. Poulami Bose
Ms. Chandrima Debnath

... .. for the petitioners

Mr. Anirban Mitra
Mr. Sourav Mondal

... .. for the NCB

1. Petitioner no.1 is in custody for about two years and eight months and petitioner no.2 is in custody for about one year and six months.
2. It is submitted on behalf of the petitioners that they have been falsely implicated. Accordingly, they pray for bail.
3. Learned Advocate for the NCB submits report with regard to the status of the proceeding.
4. We have considered the materials on record. Statements of witnesses show recovery was made from petitioner no.1. Keeping in mind the aforesaid incriminating materials on record and the statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to petitioner no.1.
5. Accordingly, the prayer for bail of petitioner no.1 viz. **(1) Piyarul Islam** stands rejected.
6. However, involvement of petitioner no.2 in the crime stems from the fact that he resided in the same household and shared common

intention with co-accused to traffic narcotics. On such score, his bail prayer was rejected on merits in August, 2023. By that order Joint Director, Narcotics Control Bureau (NCB) was directed that official witnesses, if not available, may be examined through video linkage. In spite of such direction, on the next day of trial, prayer for adjournment was made on behalf of the prosecution.

7. Under such circumstances, keeping in mind the extent of complicity of petitioner no.2 in the alleged crime and the lack of seriousness on the part of the prosecution to conduct trial with promptitude, we are of the opinion further detention of the petitioner no.2 is not necessary.
8. Therefore, the petitioner no.2, namely **(2) Sanarul Islam**, be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten thousand only), 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, Berhampore, Murshidabad subject to condition that the said petitioner no.2 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.
9. 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.
10. The application for bail, thus, stands disposed of.

(Partha Sarathi Sen, J.)

(Joymalya Bagchi, J.)

