

29.01.2024.
08.
Ct.No.28.
as
(Allowed)

C.R.M. (NDPS) 121 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.1 of 2023 arising out of NCB Crime No.01/NCB/KOL/2023 under Sections 8(c) and 20(b)(ii)(c) of the NDPS Act.

In the matter of : **Chotelal Shaw @ Chhattulalb Sah @
Chatta Kumar @ Chattlal Sah @
Chattu Kumar.**

.... Petitioner.

Mr. Kunal Ganguly,
Mr. Tirupapti Mukherjee.

...for the Petitioner.

Mr. Anirban Mitra,
Mr. Subrata Santra.

...for the NCB.

1. Petitioner contends no narcotics was recovered from his possession. He is in custody for 103 days. Co-accused is on bail. Investigation is complete. Hence, he prays for bail.

2. Learned Advocate for the NCB opposes the bail prayer. He submits petitioner was a conspirator in the crime. Narcotics recovered was to be delivered to him.

3. We have considered the materials on record. Complicity of the petitioner has transpired from the statements of co-accused which are inadmissible in evidence in the light of ***Tofan Singh Vs. State of Tamil Nadu***¹. That apart, prosecution relies on CDRs showing telephonic conversations between petitioner and co-accused from whom recovery was made. Contents of the conversations are unknown.

¹ (2021) 4 SCC 1

4. In view of scanty nature of materials co-accused viz., Rudra Behera had been released on bail. Petitioner stands on the same footing and is entitled to similar relief.

5. Accordingly, 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, to the satisfaction of the learned Judge, Special Court under the N.D.P.S. Act-cum-Additional Sessions Judge, Hooghly 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 or commit similar offences in future and on further condition that the petitioner, while on bail, shall remain within the district of Hooghly except for attending court proceeding and shall report to the Officer-in-charge, Pandua Police Station once in a week until further orders.

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.

(Gaurang Kanth,J.)

(Joymalya Bagchi, J.)

