

01.04.2024
Sl. No.10
akd
[ALLOWED]

C. R. M. (NDPS) 510 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.03.2024 in connection with N. Case No.126 of 2022 under Sections 8(c)/21(c)/29 of the NDPS Act.

And

In Re: ***Din Islam Gazi***

... .. Petitioner

Mr. Ashok Kumar Chowdhury
Ms. Oindrila Chowdhury

... .. for the petitioner

Mr. Rajdeep Majumder .. Id. Dy. Solicitor General of India
Mr. Mayukh Mukherjee

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about 105 days. It is further submitted no narcotics was recovered from his possession. Investigation so far as the petitioner is concerned is complete. Accordingly, he prays for bail.
2. Learned Deputy Solicitor General of India opposes the prayer for bail. He submits petitioner is a member of a gang involved in trans-border narcotics trade. Narcotics above commercial quantity was recovered from co-accused viz. Bakibilla Mondal, Tarikul Gazi and Aminur Mondal. In course of investigation, complicity of the petitioner and co-accused viz. Riyajul Mondal @ Raju transpired. Petitioner was arrested but Riyajul Mondal @ Raju is still at large. Investigation is in progress to apprehend the absconding accused.
3. We have considered the materials on record. Narcotics i.e. 450 bottles of *phensedyl syrup* were recovered from co-accused viz. Bakibilla Mondal, Tarikul Gazi and Aminur Mondal. In course of investigation, statements of the said co-accused were recorded

under Section 67 of the NDPS Act. These statements disclose involvement of the petitioner and Riyajul Mondal @ Raju as supplier of *cough syrup*. Petitioner was apprehended and is in custody for about 105 days. No narcotics or any other incriminating material has been recovered from the petitioner through custodial interrogation.

4. It is trite law statements of co-accused under Section 67 of the NDPS Act are inadmissible in evidence¹. Investigation so far as the petitioner is concerned is complete. Further investigation is in progress to apprehend the co-accused which may not require detention of the petitioner. In the light of the aforesaid and the scanty materials on record disclosing involvement of the petitioner in the crime, we are of the opinion he has been able to rebut the statutory restrictions under Section 37 of the NDPS Act and may be enlarged on bail however, subject to strict conditions.
5. Therefore, the accused/petitioner, namely ***Din Islam Gazi***, 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-cum-Additional District & Sessions Judge, 6th Court, Barasat, North 24-Parganas subject to condition that the said petitioner 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 North 24-Parganas and shall report to the Investigating Officer having office at Narcotics Control Bureau (NCB), Kolkata Zonal Unit, Premises No.04-0321, Plot No. DJ-2,

¹ Tofan Singh vs. State of Tamil Nadu; (2021) 4 SCC 1

Street No. 321, P.O. New Town Action Area-III, New Town,
Rajarhat, Kolkata – 700 160 once in a month until further orders.

6. 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.
7. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)