

C. R. M. (NDPS) 529 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 07.03.2024 in connection with N. Case No.19/2022 arising out of NCB Crime No.06/NCB/Kol/2022 under Sections 21(c)/29/20(b)(ii)(B) of the NDPS Act.

And

In Re: ***Sariphul Mondal @ Sariful***

... .. Petitioner

Mr. Ashok Kumar Chowdhury
Ms. Oindrila Chowdhury

... .. for the petitioner

Mr. Arun Kumar Maiti (Mohanty)
Mr. Sagar Saha

... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about five months. It is further submitted no narcotics was recovered from his possession. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Advocate for the NCB opposes the prayer for bail. He submits petitioner has criminal antecedents and was implicated in a series of cases involving narcotics. He has been shown arrested in those cases. Inspite of notice petitioner did not cooperate with the investigation.
4. We have considered the materials on record. We find that no narcotic substance was recovered from the possession of the petitioner. His complicity has transpired from the statement of co-accused before police officer under Section 67 of the NDPS Act which is inadmissible in law¹. Hence, petitioner has been able to rebut the statutory restrictions under Section 37 of the NDPS Act.

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

5. We note notices were served upon the petitioner while he was in custody in other cases. Nothing prevented the Investigating Agency to interrogate the petitioner in jail which they failed to do. This demonstrates lack of urgency on the part of the Investigating Agency to interrogate the petitioner.
6. Under such circumstances and in view of the period of detention suffered by the petitioner, we are of the opinion further detention of the accused/petitioner is not necessary and he may be enlarged on bail however, subject to strict conditions.
7. Therefore, the accused/petitioner, namely **Sariphul Mondal @ Sariful**, 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 not leave the jurisdiction of Bagdah Police Station except for the purpose of attending court proceedings and shall report to the Investigating Officer i.e. Biswanath Ghosh having office at Narcotics Control Bureau (NCB), Kolkata Zonal Unit, Premises No.04-0321, Plot No. DJ-2, Street No. 321, P.O. New Town Action Area-III, New Town, Rajarhat, Kolkata – 700 160 once in a month until further orders.
8. 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.

9. The application for bail, thus, stands allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)