

05.8.2024
Ct. No. 6
SL No. 41
SB

C.R.M. (NDPS) 1214 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **NCB Siliguri Crime No. 02/NCB/SLG/2024** dated **25.5.2024** under Sections 8(c)/21(c) of the N.D.P.S. Act.

And

In the matter of: Bishal Haldar

Mr. Md. Wasim Akram ... for the petitioner

Mr. Krishnendu Bhattacharya
Mr. Priyankar Gangulyfor the State

1. Petitioner is in custody for 75 days. He submits that no narcotics has been recovered from him. He prays for bail.
2. Learned lawyer for the petitioner contends petitioner had a telephonic conversation with co-accused from whom heroin was recovered.
3. We have considered the materials on record. An i-phone bearing IMEI no. 350472594454602 / 350472594276195 was recovered from the petitioner. From his statement recorded under Section 67 of the NDPS Act it transpires as Airtel SIM no. 6294290483 was used by petitioner to contact with co-accused Ekub Sekh. Statement of accused before Enquiring Officer under Section 67 of the NDPS Act is inadmissible in law. It has to be adjudged during trial with regard to availability of other independent evidence with regard to use of the aforesaid SIM card by the petitioner to contact co-accused.
4. In view of the aforesaid slender material on record, we are of the opinion petitioner has been able to rebut statutory restrictions under Section 37 of the NDPS Act and may be released on bail.

5. Under such circumstances, we are inclined to grant bail to the petitioner.
6. 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 NDPS Act, Malda subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever. On further condition while on bail petitioner shall remain within the police station of Dalkhola except for attending Court proceedings and shall report to the Office of the NCB at Sliguri for investigational purposes once in a fortnight, until further orders.
7. 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 without any further reference to this Court.
8. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)