

19.01.2024
Sl. No.3
akd
[Rejected]

C. R. M. (NDPS) 1810 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.10.2023 in connection with NCB Crime No.05/NCB/KOL/2022 under Sections 8(c)/21(c)/28/29 of the NDPS Act. (NDPS Case No.07 of 2022)

And

In Re: ***Md. Iqbal Qureshi @ Md. Iqbal Hussain***
... .. Petitioner

Mr. Ayan Bhattacharjee
Mr. Subir Debnath
Ms. Roma Roy

... .. for the petitioner

Mr. Dhiraj Trivedi .. Dy. Solicitor General of India
Ms. Rashmi Bothra

... .. for the NCB

1. It is submitted on behalf of the petitioner he is in custody for about one year and ten months. It is further submitted there is no legally admissible evidence collected against him. There is no reflection of the financial transactions between the petitioner and co-accused viz. Majibar Sk. from whom narcotics was recovered. Without prejudice to the aforesaid it is contended financial transactions which were relied upon by the prosecution relate to 2019 whereas the alleged transaction was in 2022. Accordingly, he prays for bail.
2. Learned Deputy Solicitor General of India opposes the prayer for bail and submits petitioner is a dealer in drugs. Recovery of narcotics i.e. 1.848 kgs. of *morphine* was from Majibar Sk. and Hafiz Abdul Hamid. Call Detail Records (CDRs) collected during investigation show frequent telephonic conversations between Majibar Sk. and the petitioner. Queries were made with banks and financial institutions. Materials collected from the financial institutions show monetary exchanges between said Majibar Sk. and the

petitioner. Trial has already commenced and one witness has been examined in part.

3. We have considered the materials on record. Allegations involve dealing in large quantity of narcotics. A consignment of 1.848 kgs. of *morphine* was recovered from Majibar Sk. and Hafiz Abdul Hamid. Their statements were recorded under Section 67 of the NDPS Act. Complicity of the petitioner transpired and he was arrested. In his statement under Section 67 of the NDPS Act, he admitted his guilt.
4. It is true the statements under Section 67 of the NDPS Act are not admissible in law. But there are other corroborative evidence which show close association between the petitioner and Majibar Sk. Statement of accounts obtained from banks indicate monetary transactions between the petitioner and Majibar Sk. It is strongly contended transactions relate to 2019 and cannot relate to dealing in drugs in 2022. This issue may be thrashed out in course of trial. However, monetary transactions between the petitioner and co-accused prior to the incident is a relevant fact admissible under Sections 8 & 10 of the Evidence Act to prove a charge of conspiracy.
5. Hence, we are of the opinion there are materials to show there was a close nexus between the conspirators viz. the petitioner and Majibar Sk. from whom narcotics was recovered. This corroborates the prosecution case of conspiracy. Trial has already commenced and one witness has been examined in part. That apart, petitioner is a man hailing from a different State and has criminal antecedents. There is high possibility of his abscondence as another co-accused who has been enlarged on bail has already absconded.
6. Under such circumstances, we do not consider it prudent to enlarge the petitioner on bail.
7. The application for bail is thus rejected.

8. Trial court is directed to conduct the trial with utmost expedition and conclude the same at an early date.
9. We make it clear that the observations made by us in the order are tentative and shall not have any bearing in course of the proceedings before the trial court which shall be considered independently and in accordance with law.
10. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)