

06.03.2025
Item no. 10.
Court No.29.
AB
(Allowed)

CRM (NDPS) 23 of 2025

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure, 1973/Under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kaliganj Police Station Case No.759 of 2024 Dated 03.09.2024 under Sections 21C/29 of the NDPS Act

And

In the matter of : Tutun Mollick @ Tutun Mallick & Anr.

.....Petitioners.

Mr. Arnab Chatterjee,
Ms. Dhanasree Biswas,
Ms. Poulami Bose for the Petitioners.

Mr. Debasish Roy, Id. PP
Mr. Arijit Ganguly,
Mr. Koushik Kundu for the State.

Dictated by Arijit Banerjee, J.

1. Learned Advocate for the petitioners says that he has ascertained that the petitioner no.2 was a juvenile as on the date of the alleged incident. He, therefore, withdraws this application insofar as the petitioner no.2 is concerned.
2. This bail application stands dismissed as withdrawn insofar as the petitioner no.2 is concerned.
3. Insofar as the petitioner no.1 is concerned, learned Advocate says that there was no recovery of contraband items from him. He has been implicated solely on the basis of statement made by a co-accused person. He is in custody for 165 days. Charge sheet has been filed upon completion of investigation.
4. Learned Advocate for the State says that he has no instructions as to whether or not charge sheet has been

filed. According to the statement of a co-accused person recorded under Section 67 of the NDPS Act, the petitioner no.1 is the supplier of the contraband items. However, there was no recovery from the possession of this petitioner.

5. To our query as to whether or not there are call details records or money trail linking this petitioner to the alleged offence, learned State Advocate fairly says that in the case diary, there is no such material.
6. In view of there being no recovery from the petitioner no.1 and his implication being solely on the basis of statement made by a co-accused person, which is inadmissible in evidence, and seeing that there is no other material to link this petitioner to the alleged offence, we are of the opinion that the petitioner no.1 has been able to overcome the restrictions in Section 37 of the NDPS Act. We are inclined to grant bail to the petitioner no.1.
7. Accordingly, we direct that the petitioner no.1, namely **TUTUN MOLLICK @ TUTUN MALLICK** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/-each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Krishnagar, Nadia, and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.

8. The petitioner no.1 shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.
9. In the event the petitioner no.1 fails to adhere to any of the conditions stipulated above without justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.
10. The application for bail is, accordingly, allowed.
11. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)