

39. 07.01.2025
Court
No.29 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1824 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of **Karimpur** Police Station Case No. **122/2023** dated **22.5.2023** under Sections **20(b)(ii)(C)/27A/25** of the NDPS Act, 1985.

And

In the matter of: - **Masadul Mondal @ Masadul Hossain** ...petitioner.
Mr. Md. Zeeshan Uddin
Mr. Rishav Kar ...for the petitioner.
Mr. Bibswan Bhattacharya
Mr. Atanu Ghosh ...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner says that there was no recovery of contraband items from him. He has been implicated on the basis of statements made by co-accused persons. He is in custody for 160 days. Charge-sheet has been filed upon completion of investigation. His further custodial detention is unnecessary.
2. Learned State Counsel, while opposing the prayer for bail, says that this petitioner has criminal antecedents. In another NDPS case he was acquitted on technical ground of non-compliance with certain provisions of the NDPS Act. However, in his usual fairness, he does not dispute that there was no recovery of contraband item from this petitioner in the present case and that he has been

implicated solely on the basis of statements of co-accused persons.

3. Statements of co-accused persons made before Police Officers are inadmissible in evidence as has now been decided by the Hon'ble Supreme Court in the case of **Tofan Singh v. State of Tamil Nadu**, reported at **AIR 2020 SC 5592**. We also see that nothing was recovered from the petitioner. The State has not been able to place before us any other incriminating material like CDR or money-trail which would involve this petitioner.
4. In view of the aforesaid, we are of the opinion that the petitioner has been able to tide over the restrictions in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and we are inclined to enlarge him on bail.
5. Accordingly, we direct that the petitioner, namely, **Masadul Mondal @ Masadul Hossain** shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court, NDPS Act, Nadia at Krishnagar, subject to condition that the petitioner shall appear before the Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, and shall not intimidate

the witnesses and/or tamper with evidence in any manner whatsoever.

6. In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the Trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.
7. The application for bail being CRM (NDPS) 1824 of 2024 is accordingly disposed of.
8. Criminal Section is directed to make available urgent photostat certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)