

05.03.2026

Court No.35.

M/L. 17.

Kausik

CRM (NDPS) 2091 of 2023

In Re: An Application for Cancellation of Bail under Section 439(2) of the Code of Criminal Procedure, 1973.

And

The State of West Bengal

Vs.

Khairul Sk. @ Patai & Ors.

Mr. Rudradipta Nandy, Ld. APP.

Mr. Ranadeb Sengupta

.....for the Petitioner.

Mr. Sabyasachi Banerjee, Sr. Adv.

Mr. Atarul Hoque Molla

Ms. Nahid Ahmed

.....for the Opposite Party.

Learned advocate for the petitioner/State has raised issues regarding the manner in which the order dated 05.07.2023 was passed emphasizing on Section 50 of the NDPS Act.

It is submitted on behalf of the State that, there was compliance of the provisions of Section 50 of the NDPS Act and to that effect option was given to the accused who did not exercise the option and expressed his option for being searched without a gazetted officer.

Learned advocate appearing for the accused/opposite party submits that the issue has been canvassed and the fact

remains that bail was granted on 05.07.2023 and there were no supervening circumstances subsequent to the bail having been granted, further, more than 2 and a half years have passed since the petitioner was released on bail. So far as the observations of the issue relating to Section 50 of the NDPS Act is concerned, the same is a matter of trial, as such the observations made in the order dated 05.07.2023 would be restricted to the order granting bail and at the end of the trial, the learned Trial Court would independently consider the order of bail without being influenced by any observations made in the order dated 05.07.2023.

Prosecution, if it requires to adduce any evidence in support of its case, would be in a position to adduce the evidence, controvert the contentions of the accused which is reflected in the order dated 05.07.2023 and prove its case according to the materials which are available with them. On the other hand, the accused would be at liberty to cross-examine on each and every fact relating to the search and seizure.

The learned Special Court would at the end of the trial take into consideration the aforesaid facts and circumstances, however, so far as the order relating to bail is concerned, since more than 2 and a half years have passed, at this belated stage, without any further supervening circumstances interfering, I am not inclined to interfere with the order granting bail.

With the aforesaid observations CRM (NDPS) 2091 of 2023 is disposed of.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)