

C.R.M. 2546 of 2020
(Through Video Conference)

In the matter of : An application for bail under section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 17/NCB/KOL/2014(10/2014-15) under section 8 of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : Basir Sk. alias Mithun

Mr. Angshuman Chakraborty

... ... for the petitioner

Ms. Hasi Saha

... ... for the NCB

Petitioner is in custody for over six years. It is submitted on behalf of the petitioner that there is a little progress of the matter in the Court below.

Learned lawyer for the NCB submits delay is not wholly attributable to prosecution. Report is placed on record.

We have considered the materials on record. Although the allegations are grave attracting statutory restrictions under section 37 of the NDPS Act, we have chosen to examine the prayer for bail of the petitioner not on merits but on the ground of inordinate delay in disposal of the case infracting his fundamental right under Article 21 of the Constitution. Trial commenced way back in 2017 and, therefore, the plea of pandemic conditions cannot absolve the prosecution from its responsibility to conclude the trial with promptitude. Petitioner has not substantially attributed to the delay.

Under such circumstances and in view of the directions of the Apex Court in **Supreme Court Legal Aid Committee representing Undertrial Prisoners Vs. Union of India & Ors, reported in (1994) 6 SCC 731**, we are inclined to grant bail to the petitioner, subject to strict conditions.

Accordingly, the petitioner shall be released on bail upon furnishing a bond of Rs. 1,00,000/- (Rupees One Lakh Only) with five registered sureties of Rs. 20,000/- (Rupees Twenty Thousand Only) each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Krishnagar, Nadia subject to the condition that the petitioner shall remain within the jurisdiction of Chakdah Police Station except for attending Court proceeding until further orders and shall appear before the trial Court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to do so without justifiable cause, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this court.

The application for bail is, thus, allowed.

The parties shall act in terms of the copy of the order downloaded from the official website of this court.

(Suvra Ghosh, J.)

(Joymalya Bagchi, J.)