

24.02.2021
Court No.28
rpan /09

C.R.M. 443 of 2021

(Via Video Conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection Arambagh Police Station Case No.107 of 2019 dated 17.03.2019 under Sections 21(b)(ii) (C)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [N.D.P.S. 05/2019];

And

In Re : **Sajdar Biswas**

...Petitioner.

Mr. Tathagata Majumdar,

Mr. Rahul Karmakar,

Ms. Srimoye Mukherjee

... for the Petitioner.

Mr. Binay Panda,

Ms. Pushpita Saha

... for the State

Mr. Majumder, learned advocate appearing for the petitioner submits that the petitioner is renewing his prayer for bail which was earlier rejected by an order dated 19th November, 2019 in CRM 10704 of 2019 as contraband substance above commercial quantity was recovered from the possession of the petitioner.

He further submits that upon completion of investigation charge sheet has been submitted. The petitioner is already in custody for more than 2 years 10 months. Out of 12 witnesses none have been examined till date and as such, there is no possibility of conclusion of trial in the near future. Deprivation of personal liberty without ensuring speedy trial would not be in consonance with the right guaranteed by Article 21 of the Constitution of India and on the basis of alleged recovery of

contraband substances, the petitioner cannot be kept under custody for an indefinite period of time.

Mr. Panda, learned advocate appearing for the State opposes the petitioner's prayer and submits that the delay which has occasioned is not totally attributable to the prosecution.

Heard the learned advocates and considered the materials in the case diary.

While exercising discretion, the Court is required to maintain a balance between personal liberty and the interest of the society. It is true that there had been a delay towards conclusion of trial but such period of delay stands intervened by a period lost due to the pandemic. The fact that the contraband substance above commercial quantity was recovered from the possession of the petitioner cannot also be totally ignored. However, steps must be taken by the investigating officer, the Public Prosecutor and the Trial Court for expediting the trial.

In the said conspectus, though we are rejecting the petitioner's prayer for bail at this stage, he would be at liberty to approach this Court if within a period of three months there is no substantial progress in the trial.

Accordingly, the application being C.R.M. No. 443 of 2021 is disposed of.

(Tirthankar Ghosh, J.)

(Tapabrata Chakraborty, J.)