

22.11.2021
Ct No. 28
D/L 3
ab/rrc

C.R.M. 2344 of 2021
(Via Video Conference)

Re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Kushmandi Police Station Case No. 155/2017 dated 19.10.2017 under Sections 20(b)(ii)(c)/29 of the Narcotic Drug and Psychotropic Substances Act.

In Re: **Sanjoy Biswas**

... petitioner

Mr. Sayan De
Mr. Kaustav Shome
Mr. Sayan Kanjilal

... for the petitioner

Mr. Sanjoy Bardhan
Mr. Palash Chandra Majhi

.... for the State

The learned Advocate-on-record of the petitioner undertakes to affirm and stamp the petition/application as per the Rules within four weeks from date. Subject to such undertaking, the application is taken up for hearing.

The petitioner has filed the instant application for bail under Section 439 of the Code of Criminal Procedure after being arrested in connection with Kushmandi Police Station Case No. 155/2017 dated 19.10.2017 under Sections 20(b)(ii)(c)/ 29 of the Narcotic Drug and Psychotropic Substances Act.

It is really unfortunate that despite specific direction passed by this Court to complete the trial within a stipulated time, the matter is being lingered and the

intention which has been projected by this Court, has not been complied with. In the month of January, 2020, this Court while rejecting the application for bail, directed the completion of the trial within a year and the subsequent application for bail filed by the petitioner was again rejected on 12th November, 2020 with a direction upon the Special Court to dispose of the matter as expeditiously as possible, more particularly, in terms of the earlier direction passed by this Court. The matter was fixed by the learned Special Judge under the NDPS Act on 26th and 27th November, 2020, but the prosecution did not bring any witness which compelled the Court to fix another date.

Though a plea was sought to be taken up by the State subsequently that there was no timeline fixed by the Court to which we do not concur nor can give a nod thereupon. The subsequent order was specific that the matter should be brought to its logical end as expeditiously as possible in terms of the earlier order meaning thereby, it has to be disposed of within a year from the date of communication thereof.

The misreading of the observations made in the subsequent order at the behest of the State appears to us uncalled for. Even apart, it is a duty of the prosecution to bring all the witnesses and the trial to be completed as expeditiously as possible. The speedy trial is a virtue and cannot be abused and/or misused by the prosecution to

whom the carriage of proceedings lies by not bringing the charge sheeted witnesses and activate the process of trial.

Be that as it may, we find that the earlier applications for bail filed by the petitioner were dismissed as the petitioner was found to have possessed the contraband above the commercial quantity. We do not find any changed circumstances warranting different decision. Accordingly, the prayer for bail is rejected.

At this stage, we are informed that out of 11 charge sheeted witnesses, 3 witnesses have been examined and discharged. Neither the learned Advocate for the petitioner nor the learned Advocate for the State are in a position to apprise us the next date fixed by the Court for examination of other witnesses.

We, therefore, request the learned Special Judge under the NDPS Act, Dakshin Dinajpur at Kushmandi to fix a date for recording evidence of the rest witnesses which should not exceed beyond one month from the date of communication of this order and shall, thereafter, fix the matter on day to day basis in terms of Section 309 of the Code of Criminal Procedure so that the matter can be brought to its logical end at an earliest. The prosecution is directed to bring witnesses on each day so fixed and shall not seek for adjournment unless necessitated by unforeseen circumstances. The learned lawyer for the defence also cooperate and assist the Court in adhering

the timeline given hereinabove and also shall not indulge in asking for any unnecessary adjournment.

In view of the above observations, the application for bail being **CRM 2344 of 2021** is **dismissed**.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)