

20.12.2021
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sdas
rejected

C.R.M. 6088 of 2021
(via video conference)

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No. N-126 of 2016 arising out of NCB Crime No. 30/NCB/Kol/2016 under Section 21(c) of the NDPS Act.

And

In Re : Md. Samin Akhtar @ Samim Aktar petitioner

Mr. Manjit Singh
Mr. Gaganjyot Singh
Mr. Biswajit Mal

... for the petitioner

Mr. Y. J. Dastoor, learned ASG
Mr. P. Edulji
Mr. Amajit De

... for the State

Learned Counsel appearing for the petitioner submits that the petitioner is in custody for five year and four months. Petitioner prays for bail on the ground of inordinate delay in disposal of the case.

Learned Additional Solicitor General appearing for Union of India submits that the case has substantially progressed and trial shall be concluded within three months from date.

We have considered the materials on record. Allegations involve possession of narcotic substance above commercial quantity. However, bail is sought for on the ground of inordinate delay in disposal of the case. While there is delay

in progress of trial, intervening pandemic situation must also be taken into consideration.

Balancing the gravity of the offence on the one hand and the protracted period of detention suffered by the petitioner on the other hand, we direct the trial court to ensure that the trial be concluded positively within six months from the next date fixed for recording of evidence and no unnecessary adjournment be given to either of the parties. We also observe that the trial shall be conducted on a day-to-day basis as far as practicable.

In view of the fact that petitioner has already undergone more than five years of incarceration, we observe that our direction is peremptory in nature and in the event the prosecution fails to conclude the trial within the aforesaid time, there are no extenuating circumstances intervening, petitioner would be entitled to renew prayer for bail in accordance with law.

The application for bail is, thus, rejected.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)