

22.11.2021

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(Via Video Conference)

CRM 7400 of 2021

Md Umar Ali @ Umar Ali

-Vs.-

The State of West Bengal

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Lalgola P.S. Case No.576 of 2018 under Sections 21(C)/29 of the NDPS Act, 1985 (corresponding to NDPS Case No.251 of 2018).

Mr. Sabir Ahmed

Mr. Ali Ahsan Alamgir

Ms. Riya Das

Ms. Rabia Khatoon

.....For the Petitioner

Mr. Madhusudan Sur

Mr. Manoranjan Mahato

.....For the State

This is the second round of application whereunder the petitioner has renewed his prayer for his release on bail, inter alia, on the ground that he is left in limbo of jail custody for the last 3 years 2 months without trial.

It is pointed out that the Coordinate Bench of this Hon'ble Court by an order dated 22.04.2021 in connection with CRM 1803 of 2021, while rejecting the application for bail was pleased to direct the Learned Trial Court to fix dates within a specified period of time so that the trial can be concluded to its logical conclusion.

Mr. Sabir Ahmed, learned counsel appearing for the petitioner submits that the order passed on 31.08.2021 reflects that learned trial Court did not comply with the directions embodied by the Hon'ble Court as the case has been fixed on 13.01.2022 for production of appearance and evidence.

Learned advocate appearing for the State raised vehement objection to grant of bail contending that commercial quantity of liquid codeine phosphate were seized from the custody of the accused persons including the present petitioner.

Mr. Sabir Ahmed, learned counsel appearing for the petitioner pressed in service a copy of the order dated 07.02.2020 passed in CRR 2360 of 2019 whereby the revisional court gave opportunity to the petitioner to use the C.D.R.s to show his innocence at the stage of defence witnesses after the examination of the accused person under Section 313 of the Criminal Procedure Code. The said order does not appear to have been placed before the Coordinate Bench of this Hon'ble Court while previously rejecting the prayer for bail.

Therefore, it is difficult for us to come to a prima facie conclusion, at this stage, to hold that the petitioner is innocent and has been falsely implicated.

We are of the considered view that long incarceration in jail is not a ground of bail in a case of this nature. Be that as it may, the

Coordinate Bench direction for the speedy trial is required to be complied by fixing schedule of dates for trial.

Upon hearing both the parties and in consideration of the Case Diary and other materials on record, the prayer for bail is rejected in view of the legal bar as embodied under Section 37 of the NDPS Act.

Thus, the application being, CRM 7400 of 2021 is dismissed.

However, the Learned Trial Court is directed to expedite the trial as per the guidelines given by the Hon'ble Supreme Court in case of *Thana Singh v. Central Bureau of Narcotics* reported in (2013) 2 SCC 603. This Court hope and expect that the Learned Trial Court will conclude the trial within a period of one year from the date of communication of this order.

Parties are at liberty to act on the basis of the copy of the order being downloaded from the server of the Official Website.

(Krishna Rao, J.)

(Shivakant Prasad, J.)