

**23.08.2021**

Court No.30  
rpan / **06**

**C.R.M. 9008 of 2020**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with NCB Crime No. 01/NCB/KOL/2018 dated 04.01.2018 under Sections 21(c)/28/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [now numbered as N – 07/2018];

And

In Re : **James Kevin Edward**

- Petitioner.

Mr. Debasis Kar,  
Mr. Arka Chakraborty,  
Mr. Husen Mustafi,  
Mr. Subhajit Choudhury

....for the petitioner.

Mr. Y. J. Dastoor, Ld. A.S.G.  
Mr. Sagar Saha

....for the UOI.

This is an application praying for bail on the ground of long incarceration suffered by the petitioner.

Learned advocate for the petitioner submits that the petitioner has been languishing in custody for about three years and ten months without any tangible progress of trial. Since he is in custody without any progress of trial, his personal liberty has been prejudiced and in such conspectus, he is entitled to bail.

Mr. Dastoor, learned Additional Solicitor General is present and he raises objection against the prayer for bail. It is submitted that in this case there is recovery of contraband substance, above the commercial quantity, and upon consideration of the rigour contained in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short,

the said Act), bail could not be granted to petitioner. Charge in this case has already been framed, but subsequently, necessity arose for alteration of the charge on certain grounds. The delay attributable to the conduct of the prosecution is not true. There are other intervening circumstances, for which delay has been caused.

Having considered the submissions of both sides and bearing in mind the recovery of the contraband substance, above the commercial quantity, we are not inclined to grant bail to the petitioner in the instant case, bearing in mind restriction imposed under Section 37 of the said Act.

The prayer for bail is considered and rejected.

Since learned advocate for the petitioner has expressed his anguish and inconvenience, as regards the delay in the progress of trial, we take notice of such issue and direct the learned court below to expeditiously conduct the trial, and if necessary, upon resorting to steps available under Section 309 of the Code of Criminal Procedure, so that logical conclusion of this case may be reached at the earliest. In doing such exercise, the learned court below is free to fix consecutive dates for examination of the witnesses, cited in the charge sheet. Learned advocate for the UOI is requested to produce the witnesses on the dates so scheduled, for effective utilization of the dates.

The application for bail, being CRM 9008 of 2020 is, accordingly, disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Subhasis Dasgupta, J.)      (Tapabrata Chakraborty, J.)**