

19.08.2021
Court No.30
rpan / **09**

C.R.M. 9014 of 2020

In Re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with F No. SI(VII)197/2015 AIU dated 27.10.2015 under Sections 21(C)/23(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 [now numbered as N – 197 of 2015];

And

In Re : **Sri Pawan Kumar**

.... Petitioner.

Mr. Debasis Kar,
Mr. Arka Chakraborty,
Mr. Sourav Mukherjee

....for the petitioner.

Mr. Bhaskar Prosad Banerjee,
Mr. Tapan Bhanja

....for the Air Intelligence Unit/Opposite Party.

This is an application for bail under Section 439 of the Code of Criminal Procedure alleging long incarceration for about five years and ten months.

Learned advocate for the petitioner submits that the petitioner has been falsely implicated in this case and he had no active contribution to cause delay in the progress of trial, and in such conspectus, he is entitled to bail.

The delay, according to the petitioner, is due to the prosecution, which failed to produce the required witnesses on the dates scheduled leading to protraction of the trial thereby causing serious prejudice to the petitioner.

Mr. Banerjee, learned advocate for Air Intelligence Unit, Union of India submits that trial has progressed in the meantime even in pandemic with collection of evidence of two witnesses, and

four witnesses are still left to be examined. Mr. Banerjee produces a report to that effect. Let the same be kept on record.

It is further submitted by Mr. Banerjee that AIU authorities cannot be held responsible for causing delay in the progress of trial, but it is due to the impact of Covid-19, which has substantially impeded the trial to reach to its desirable extent.

This is a case wherein there is recovery of contraband substance, above the commercial quantity, and bail could not be granted in view of the rigour contained in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the said Act). The case is in the midst of trial.

Having considered the submissions of both sides and looking at the progress of trial, we are of considered view that for the recovery of the contraband substance, above the commercial quantity, and in view of the restriction imposed under Section 37 of the said Act, this is not a fit case, where we should exercise our discretion by granting bail to the petitioner.

The prayer for bail is considered and rejected.

Since learned advocate for the petitioner has expressed his dissatisfaction and anguish with regard to the delay in the progress of trial, we take notice of such issue, and in view of the report furnished by the AIU authorities, we are hopeful that the trial could be finished preferably within 31st December, 2021.

Learned court below is directed to take all possible steps and such other additional steps adhering to mandate available under Section 309 of the Code of Criminal Procedure, and in doing such exercise, the learned trial court is free to fix consecutive dates so

that the trial may be concluded within the stipulated period of time.

Mr. Banerjee assures this Court that the witnesses, still left to be examined, would be produced before the court below on the scheduled date/dates and there will be no non-cooperation from the side of AIU authorities to conclude the trial within the date mentioned hereinabove.

In such circumstances, learned advocate for petitioner is requested to cooperate with the learned trial court so that the trial may be concluded at an early date, preferably within 31st December, 2021.

The application for bail, being CRM 9014 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.)