

08.07.2021

Court No.28
Item No.19
(REJECTED)

Saswata
&
ab

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT
JALPAIGURI**

(Via Video Conference)

CRM 715 of 2021

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with Kumargram Police Station Case No. 344 of 2016, dated 01.11.2016 under Sections 20(b)(ii)(c) of the NDPS Act.

And

In the matter of : **Lucas Basumatary @ Honga @ Lukas Basumatari
...Petitioner**

**Mr. Tapas Kr. Ghosh
Mr. Tanmoy Chowdhury**

...For the Petitioner

**Mr. Aditi Sankar Chattopadhyay, Ld. APP
Mr. Sagnik Sankar Sikdar.**

...For the State.

The 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.

This is an application for long incarceration renewing the prayer for bail after it was rejected on 3rd February, 2021 passed in CRM 389 of 2021.

Learned Advocate for the petitioner submits that petitioner has been languishing in custody for last 5 years without any tangible progress in the trial. It is further submitted that even after rejection of the prayer for bail, lastly on 3rd February, 2021 in CRM 389 of 2021, there has been no change in the circumstances making examination of any witnesses to show the tangible progress. Thus, for delayed progress

of the trial affecting the personal liberty of the petitioner, learned Advocate for the petitioner strenuously proposes for extending the privilege of bail to petitioner.

Learned Advocate for the State raises objection against the prayer for bail and submits that date was fixed even after the rejection of the prayer for bail, but the same could not be effectively utilized due to the impact of the COVID-19. It is further submitted that there are 6 witnesses cited in the charge-sheet and the trial is expected to be concluded very shortly with examination of the required witnesses cited in the charge-sheet.

Having considered the submissions of both sides, it appears that besides the long incarceration, there has been neither any improvement, nor any change in the circumstances justifying a different decision than that of the decision already rendered in CRM 389 of 2021 in extending the privilege of bail. More so long incarceration alone can not be ground of bail.

We, thus, find no sufficient reasons to grant bail for the delayed progress of the trial. The prayer for bail is considered and rejected.

However, we are highly concerned with the anguish expressed by the learned Advocate for the petitioner regarding delayed progress of the trial. Admittedly, there are 6 witnesses cited in the charge-sheet and the petitioner is in custody for 5 years.

To redress the contention raised by the learned Advocate for the petitioner, we feel it convenient to pass a necessary direction so that trial may be expedited and logical conclusion of the case may be reached within a reasonable period of time.

The learned Trial Judge is, accordingly, requested to expedite the trial and take all such necessary steps strictly adhering to the mandate available under Section 309 of the Code of Criminal Procedure so that logical conclusion of the case may be reached within a very reasonable period of time.

In doing such exercise, it is desirable that the learned Trial Judge shall not grant any adjournment on the prayer of either of the parties to this case, without any justifiable cause, unless it is extremely unavoidable.

CRM 715 of 2021 is, thus, disposed of.

(Harish Tandon, J.)

(Subhasis Dasgupta, J.)