

05.08.2021

Court No.28
Item No. JB-04
nandy

(BAIL – REJECTED)

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

(Via Video Conference)

CRM 779 of 2021

In Re:- An application for **Bail** under Section **439** of the Code of Criminal Procedure filed on 23.07.2021 in connection with New Jalpaiguri Police Station Case No. 90 of 2018 dated 12.02.2018 under Sections 20(b)(ii)(c)/23(c) of the Narcotic Drugs & Psychotropic Substances Act. (NDPS Case No. 05 of 2018)

and

In the matter of: **Sashi Sahani**

.....Petitioner

Mr. Jaydeep Kanta Bhowmik, Advocate

.....for the Petitioner

Mr. Aditi Sankar Chakraborty, learned A.P.P.

Mr. Ujjwal Luksom, Advocate

Mr. Aniruddha Biswas, Advocate

.....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.

The petitioner has filed the instant application for bail in connection with New Jalpaiguri Police Station Case No. 90 of 2018 dated 12.02.2018 under Sections 20(b)(ii)(c)/23(c) of the Narcotic Drugs & Psychotropic Substances Act.

A plea has been taken by the petitioner that despite a direction for expeditious hearing of the case passed by this Court in CRR 121 of 2019 on December 11, 2019, there is no progress shown to the trial. He thus prays for bail on the ground of delayed trial.

Learned Advocate for the State opposes the prayer for bail and submits that commercial quantity of contraband i.e. 22.685 KGs of Ganja was recovered from the joint possession of the petitioner and others. Therefore, he is not entitled to bail.

After considering the respective submissions and on perusal of the materials available from the record, there is no doubt in our mind that commercial quantity of contraband was recovered from the joint possession of the petitioner and, therefore, rigor of Section 37 of the Narcotic Drugs & Psychotropic Substances Act is attracted which disentitle the petitioner to be released on bail.

As such, the prayer for bail is **rejected**.

The application being **CRM 779 of 2021** is accordingly **dismissed**.

However, we appreciate the agony and anguish shown by the petitioner that despite the order of expeditious disposal of the case there is, in fact, no progress therein. Obviously the order was passed on December 12, 2019 and, thereafter, the pandemic struck globally which impedes the progress of the matter in the judicial system as well.

We are not unmindful of the fact that the right to speedy trial is enshrined under the Constitution of India and it is the duty of the institution to take care of such mandate given in the Constitution yet one cannot close his eyes to the reality which affected globally. The Courts are achieving normalcy and gearing up for expediting the judicial process and, therefore, we expect that the learned Special Judge, would show some alacrity in taking up the matter and disposing of the same on expeditious basis.

We, therefore, request the learned Special Judge, NDPS Court, to take up the matter and see that the evidence of the chargesheeted witnesses are examined following the mandate of Section 309 of the Code of Criminal Procedure and bring end to the matter preferably within eight months from the date of communication of this order.

(Harish Tandon, J.)

(Bibek Chaudhuri, J.)