

29.11.2021

Item No.15

Ct.No.1

dc./gsd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

C.R.M. 998 of 2021

(Via Video Conference)

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with NDPS Case No. 28 of 2018 arising out of Dhupguri P.S. Case No. 253 of 2018 dated 27.7.2018 under Sections 20(b)(ii)(c) of the NDPS Act.

And

In the matter of : **Jakir Hussain**

... Petitioner.

Mr. Kallol Ghosh

... for the petitioner

Mr. Aditi Shankar Chakraborty

Mr. Aniruddha Biswas ... For the State.

The learned advocate for the petitioner is aggrieved by the fact that although the petitioner is in custody since July, 2018 and almost three-and-half years have passed, yet a single prosecution witness has not been completed till date.

The Investigation Officer of the case is present in Court and he has submitted a report which provides details regarding the chronology of events which occurred in course of trial.

The report reflects that another accused person absconded for a considerable period of time and he was

subsequently arrested and produced before the Court only on December, 2020 from Assam.

The other issue which has been canvassed by the Learned Advocate for the petitioner is that the person who absconded was granted bail by a Coordinate Bench of this Court.

We have perused the order passed by the Coordinate Bench and we find that there was no recovery from the said accused and only on the basis of the statement of co-accused, the said accused was implicated in the instant case.

Per contra, so far as the present petitioner is concerned, there has been recovery from the vehicle which he was driving and there was recovery of commercial quantity of 108 kg *ganja*.

Be that as it may, having regard to the rigors of Section 37 of the NDPS Act is concerned, we are not inclined to release the petitioner on bail at this stage in view of the fact that the Learned Trial Court could not progress the case smoothly because of the pandemic. The prayer for bail is **rejected**.

However, the Learned Trial Court is directed to fix a schedule of dates on each and every month for the progress of the case and not to grant any unnecessary adjournment to any of the parties.

The Public Prosecutor conducting the case would provide in advance regarding the availability of the witness concerned to the Learned Trial Court and then only dates would be fixed on each and every date.

The Investigating Officer is further directed to see that the materials required for producing the same in course of trial should be made available on the date fixed and no flimsy grounds must be stated for getting the matter adjournment on the date so fixed.

The Learned Trial Court is further directed to see that the examination of the prosecution witnesses are completed by 31st of October, 2022.

Both the Investigating Officers of the case are present in Court. Their personal appearance stands dispensed with.

With the aforesaid observations, CRM 998 of 2021 is disposed of.

All parties shall act on the server copy of this order, duly obtained from the official website of the Hon'ble High Court Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)

(Subrata Talukdar, J.)