

21.02.2022
Court No.32
Item No. 59
Avijit Mitra

C.R.M.(NDPS) No.140 of 2022 (Through video conference)

In Re:- An application for bail under section 439 of the Code of Criminal Procedure ;

And

In Re : Ariful Mondal

Petitioner

Mr. Kamallesh Saha

For the Petitioner

Mr. Binay Panda,
Mr. Saurindra Mahapatra

For the State

The present application under Section 439 of the Code of Criminal Procedure has been preferred by the petitioner in connection with Basirhat Police Station Case No.1131 of 2020 dated 16.10.2020 under section 21(c) of the N.D.P.S. Act and 14 of Foreigners Act.

Mr. Saha, learned advocate appearing for the petitioner submits that the petitioner's prayer for bail was earlier rejected by a Coordinate Bench of this Court on 7th December, 2021. Thereafter, there has been a change in the circumstances as charges have been framed subsequent thereto on 13th December, 2021. Surprisingly, the next date has been fixed about four months thereafter on 12th April, 2022. The petitioner is languishing in custody for more than 500 days, there are eight witnesses and as such, there is no possibility towards conclusion of the trial in the near future. In such circumstances, the petitioner may be enlarged on bail on any stringent condition.

Mr. Panda, learned advocate appearing for the State opposes the petitioner's prayer and submits that contraband substance above

commercial quantity was recovered from the exclusive possession of the petitioner.

The delay which has occurred is also not totally attributable to the State. The period of delay stands intervened by a period lost due to the pandemics.

Heard the learned advocates appearing for the respective parties and considered the materials in the case diary.

As there has been recovery of contraband substance above commercial quantity from the exclusive possession of the petitioner, the statutory restrictions are attracted and in view thereof, we are not inclined to exercise any discretion in favour of the petitioner and as such, the prayer for bail is refused at this stage.

Mr. Saha has further expressed his anguish and inconvenience, as regards the delay in progress of the trial. We take notice of such issue and direct the learned Court below to expeditiously conduct the trial, without granting any unnecessary adjournment to either of the parties and, if necessary, upon resorting to the steps available under section 309 of the Code of Criminal Procedure so that logical conclusion of the case may be reached at the earliest preferably within a period of eight months from the date of communication of this order.

The application for bail, being CRM (NDPS) No.140 of 2022, is disposed of.

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

(Sugato Majumdar, J)

(Tapabrata Chakraborty, J)