

24.06.2022
cm/ct 28
sl no. 5

C.R.M.(NDPS) No. 560 of 2022

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Special case No. 58 of 2016 arising out of **NCB Crime No. 45/NCB/KOL/2016** dated **22.11.2016** under Sections **8 (c)/15/29** of the NDPS Act.

And

Rejected

In Re : Sapan Mandal

..... petitioner

Mr. Ayan Basu
Mr. Sk. Salim
Mr. Sumit Routh

..... for the petitioner

Mr. Rajdeep Mujumder

..... for the NCB

Petitioner renews his prayer for bail. He submits he is in custody for five years and six months.

Learned advocate appearing for the NCB opposes the prayer for bail. He submits prayer for bail of the petitioner on the ground of delay in trial and was considered and rejected by a coordinate Bench in CRM No. 7715 of 2021.

We have considered the materials on record. There are ample materials connecting the petitioner with alleged possession of narcotic substance above commercial quantity. Under such circumstances and in the light of Section 37 of the NDPS Act, petitioner is not entitled to bail on merits.

However, there is considerable delay in the trial of the case. Such issue, however, fell for decision before a coordinate Bench of this Court in CRM 7715 of 2021 the Bench wherein inter alia, observed:

“It cannot be said that, the prosecution has delayed the trial or has been lackadaisical in proceeding with the trial.”

Since then, trial did not progress as the court was lying vacant. That too, cannot be attributed indolence in the prosecuting agency. We are informed next date fixed for recording evidence is on 4th July, 2022 and 5th July, 2022. Under such circumstances, we are not inclined to enlarge the petitioner on bail on the ground of delay. But as the petitioner has already suffered detention for more than five years, we direct the trial court to take all steps for examination of witnesses on a day to day basis and conclude the trial positively within six months from the next date fixed before the court without granting unnecessary adjournment either of the parties.

Department is directed to communicate the copy of the order to the parties.

The application being CRM(DB) No. 560 of 2022 is rejected.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)

