

C.R.M. 5518 of 2021

31.03.2022
Sl. 57
Court No.29
sourav
(Disposed of)

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed in connection with **NDPS** Case No. **221** of **2015** arising out of Customs Seizure Case No. **02/NDPS/CL/BCPU/CUS/2015** dated **06.08.2015** under Sections **20(b)(ii)(c)/29** of the NDPS Act.

And

In the matter of: **Md Raish**

....petitioner.

Mr. Pradip Kumar Kundu,

...for the petitioner.

Mr. Vipul Kundalia,

Mr. Sukalpa Seal,

Mr. Anurag Roy,

...for the Customs Authorities.

Petitioner seeks for bail.

The prayer of bail is founded largely on violation of Article 21 of the Constitution of India.

Learned advocate appearing for the petitioner submits that the petitioner is in custody in excess of six years nine months. Even if, the period of pandemic is discounted, then also, the petitioner is entitled to bail.

Learned advocate appearing for the prosecution submits that the prosecution cannot be said to indolent in the prosecution. The accused also took adjournments at the trial. Moreover, the ongoing pandemic impacted the expeditious disposal of the trial.

An accused is entitled to seek bail on the ground of violation of the personal liberty guaranteed by the Constitution. However, such accused need to make out a case to such effect in the petition itself.

In the facts of the present case, apart from adverting the period of detention, no case is made out to establish that the

prosecution was indolent with regard to the trial of the case.

The Court cannot be oblivious of the fact that the ongoing pandemic also impacted the proceedings in Court.

Commercial quantity of narcotics was seized from the possession of the petitioner. The petitioner is otherwise not in a position to rebut the presumptions under Section 37 of the NDPS Act, 1985. We are, therefore, unable to enlarge the petitioner on bail.

We are of the view that interest of justice would be subserved by requesting the trial court to fix consecutive dates of trial and endeavour to adhere to the same. The trial court is also requested not to grant any unnecessary adjournments to any of the parties.

C.R.M. 5518 of 2021 is disposed of.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)

