

CRM (NDPS) No. 1193 of 2022

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Uttarpara Police Station Case No. 635 of 2019 dated 14th December, 2019 under Sections 21(c)/29 of the NDPS Act.**

- A n d -

In the matter of : Bholanath Mehera

.... Petitioner

Mr. Saryati Datta

... For the Petitioner

Mr. Rudradipta Nandy

Ms. Sonali Das

..For the State

Although the petitioner's earlier application for bail was rejected on 16th December, 2020, the subsequent event is an order passed by learned Single Judge on 22nd April, 2022 by which a specific schedule was framed by the Court to ensure that the trial can be completed within a reasonable period of time. Admittedly, none of the 13 (thirteen) charge-sheeted witnesses have been examined in compliance with the direction passed by the Court on 22nd April, 2022.

We are also persuaded to accept the submission made on behalf of the petitioner in view of two orders passed by the Supreme Court in Criminal Appeal No. 668 of 2020 and SLP (CRM) No. 5187 of 2021 dated October 12, 2020 and 10th November, 2021 respectively. In both the orders, three Judge Benches of the Supreme Court noted that the

petitioner was in custody for more than 2 (two) years. The offence of NDPS was also involved in both the cases.

The learned Additional Public Prosecutor opposes the prayer for bail on the ground that a schedule for examination of the witnesses has been fixed and further that commercial quantity are involved in the matter.

The petitioner in the present case has been in custody for more than 2 (two) years and 10 (ten) months; the charge-sheet was submitted on 2nd June, 2020 and the charges were framed on 25th November, 2021. These dates further persuade us to allow the application for bail.

We are also of the view that the petitioner has been able to rebut the statutory presumption under Section 37 of the NDPS Act in view of the particular facts of the case.

The petitioner shall accordingly be released on bail upon furnishing a bond of Rs. 10,000/- (rupees ten thousand only) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Chinsurah. Petitioner shall also not tamper with evidence or intimidate witnesses and shall further appear before the trial court on every date and cooperate with the investigating officer as and when the petitioner is required to do so. In the event, the petitioner fails to appear before the trial court without sufficient cause, the trial court shall be at liberty to cancel the bail without further reference to this Court.

CRM (NDPS) No. 1193 of 2022 is allowed and disposed of in terms of the above.

(Saugata Bhattacharyya, J.)

(Moushumi Bhattacharya, J.)