

29.03.2023
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allowed

CRM(NDPS) No. 550 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Special Task Force Police Station Case No. 18 of 2018 dated 06.10.2018 under Sections 20(b)(ii)(C)/29 of the NDPS Act and Sections 467/468/34 of the Indian Penal Code.

And

In Re : Parag Jyoti Saikia @ Partho petitioner

Mr. Sandipan Ganguly, Sr. Adv.

Mr. Dipanjan Dutt

Mr. Surojit Saha

.....for the petitioner

Mr. Sanjoy Bardhan

Ms. Debjani Dasgupta

..... for the State

Learned Counsel for the petitioner submits he is in custody for about four and half years. No narcotics was recovered from his possession. It is submitted there is inordinate delay in trial. Only eight witnesses have been examined. He renews his prayer for bail.

Learned Counsel for the State opposes the prayer for bail and submits the bail prayer was rejected earlier by this Court as well as the Hon'ble Supreme Court. Trial has progressed with sufficient expedition. Delay was due to absence of the Presiding Officer in the trial court.

We have considered the materials on record. A very large consignment of Ganja i.e. over 2000 kgs. was recovered from a vehicle. Invoice found in the vehicle is said to be in the handwriting of the petitioner. In view of the aforesaid incriminating

materials bail prayer of the petitioner was rejected earlier on merits. Matter travelled to the Apex Court and in Special Leave to Appeal (Crl.) No(s). 5439 of 2019 the Apex Court by order dated 25.02.2020 observed that the trial be concluded preferably within nine months. As the pandemic intervened, the Apex Court vide order dated 29.06.2021 in Special Leave to Appeal (Crl.) No(s). 4203 of 2021 declined to enlarge the petitioner on bail but directed the trial to be concluded as early as possible. Thereafter trial has progressed and we are informed eight witnesses have been examined till date. Prosecution proposes to examine fifteen witnesses in all. Though Presiding Officer was absent on some dates it is also relevant to note prosecution witnesses failed to attend on other dates. Petitioner has been in custody for about four and half years. He has not contributed to the delay. From the status of the trial we are of the view there is no possibility that it would conclude in the near future. In this backdrop, we are of the opinion fundamental right to speedy trial of the petitioner has been infringed and he is entitled to bail on this score. Bail prayer of the petitioner on this ground is not fettered by Section 37 of the NDPS Act. Under such circumstances, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.50,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge Bench – I, NDPS Act, City Sessions Court, Calcutta, on further conditions that while on bail the petitioner shall remain within the jurisdiction of Municipal

limits of Kolkata until further orders except for the purpose of attending court proceeding and shall provide the addressed where he shall presently reside to the investigating officer as well as the court below and shall report to the Officer-in-Charge of the concerned police station within whose jurisdiction he shall presently reside once in a week until further orders. Petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. He shall also not delay and dilate the trial in any manner or seek unjustified adjournments.

In the event the petitioner fails to comply with the aforesaid conditions without justifiable cause, the trial court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail is, accordingly, allowed.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)