

31.03.2023
as/tkm/ct 28
sl no. 17

C.R.M. (NDPS) 612 of 2023

In Re : An application for bail under section 439 of the Code of Criminal Procedure in connection with Basirhat PS case no. 84 of 2021 dated 9.2.2021 under section 21(c) of the NDPS Act

And

In Re : Saha Alam Sk petitioner

Mr. A Chakraborty

Mr. S S Saha

..... for the petitioner

Mr. Ranadeb Sengupta

..... for the State

Petitioner is in custody for more than two years. It is contended in spite of direction for expeditious trial given by this court as well as Hon'ble Apex Court, trial has not concluded. He prays for bail.

Learned lawyer for the State opposes the bail prayer.

We have considered the materials on record. 10 liters of codeine phosphate above commercial quantity was recovered from the petitioner. Charge was framed in December 2021. Thereafter in February 2022 learned Single Bench of this court in CRR 328 of 2022 directed the trial court to be concluded at the earliest preferably within one year from the next date fixed. Hon'ble Apex Court by order dated 11.5.2022 in Special Leave to Appeal (Cri) 3712/2022 while rejecting the bail prayer directed the trial court to complete trial expeditiously. Thereafter, one witness was examined in August 2022. But due to heavy pendency in the file of the trial judge the matter was fixed for examination of witnesses in November 2022 and the second witness was also examined. Thereafter, no witness has been examined till date.

In view of the aforesaid facts, we are of the opinion prosecution had produced witnesses on the dates fixed. Delay was due to systemic reasons and heavy pendency of the case. Under such circumstances we are of the opinion delay in the case cannot be attributed to the prosecution. Hence, we are not inclined to grant bail to the petitioner.

Accordingly, prayer for bail is rejected.

Trial court is requested to expedite the trial subject to pendency in his file without granting unnecessary adjournments. Prosecution shall produce witnesses on the dates fixed for recording evidence without fail.

Parties shall communicate the order to the trial court for necessary compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)