

26.04.2023
Sl. No.12
akd
[Rejected]

C. R. M. (NDPS) 871 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.04.2023 in connection with Serampore Police Station Case No.130 of 2020 dated 18.04.2020 under Section 21(c) of the NDPS Act. (NDPS Case No.28 of 2020)

And

In Re: **Subhash Roy**

... .. Petitioner

Mr. Arunava Ganguly

... .. for the petitioner

Mr. Ranadeb Sengupta

... .. for the State

It is submitted on behalf of the petitioner that he is in custody for more than three years. Accordingly, he renews his prayer for bail.

Learned Advocate for the State opposes the prayer for bail and submits bail prayer of the petitioner was rejected in September, 2022. Thereafter schedule was fixed for examination of witnesses on and from 21.03.2023. To avoid the trial, a bail application was filed before this court and the case diary was brought to this court. This resulted in delay in trial.

We have considered the materials on record. Bail prayer of the petitioner was rejected on merits in September, 2022. Thereafter, trial could not proceed as the court was lying vacant. Finally, schedule was fixed for examination of witnesses on and from 21.03.2023. A couple of weeks prior to the said schedule, a bail application was filed before this court which came to be dismissed as withdrawn. On the score of the pendency of the said bail application, the case diary was brought before this court and the trial was delayed.

We are of the view the earlier bail application was filed as a stratagem to withdraw the original case diary from the trial court and

hinder progress of trial. Conduct of the petitioner shows that he had resorted to subterfuge to delay the trial.

Hence, we are not inclined to grant bail to the petitioner on such score.

The application for bail is thus rejected.

Trial court is directed to expedite the trial and proceed with the matter before the said court.

We have noticed this disturbing feature in a number of cases. Whenever dates are fixed for framing of charge or recording prosecution evidence, bail applications are filed before this court and original case diary is called for and the trial is delayed.

Public Prosecutor, High Court, Calcutta is directed to instruct all district Public Prosecutors and Special Public Prosecutors that in the event dates for consideration of charge, recording of evidence etc. are fixed, a photocopy of the case diary may be sent with a note to that effect.

It is further made clear trial shall not be hindered on the ground that a bail application has been filed before a superior court or before the said court.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)