

05.06.2023.
06.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 990 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection NDPS Case No.103 of 2020 arising out of Kaliachak P.S. Case No.1049 of 2020 dated 23.12.2020 under Sections 21(c)/29 of the NDPS Act read with Sections 18(b)/27(a) of the Drugs & Cosmetics Act.

In the matter of : Harun Sk.

... Petitioner.

Mr. M. Mukherjee,
Mr. D. Kundu.

...for the Petitioner.

Mr. Ranabir Roy Chowdhury,
Mr. Mainak Gupta.

...for the State.

Report filed on behalf of the State be kept on record.

Petitioner challenges order dated 01.09.2021 extending the period of detention under proviso of Section 36A(4) of the NDPS Act. It is submitted that the impugned order is a contradictory one. While the Special Court was not satisfied with the progress of investigation, it extended the period of detention for a fortnight.

We have considered the materials on record including the report submitted on behalf of the State. Petitioner was arrested with 2500 bottles of phensedyl syrup containing codeine phosphate above commercial quantity on 22nd December, 2020. On the prayer of the Public Prosecutor period of detention was extended firstly on 16.06.2021 till 29th August, 2021. Thereafter, on 27th

August, 2021, another prayer for extension of the period of detention was made. Such prayer was founded essentially on the ground the chemical examiner's report is awaited and co-accused is absconding. Though the Special Court observed that effort to arrest the co-accused was made only on one day i.e. on 02.07.2021, it extended the period of detention for a fortnight. Charge sheet came to be filed within the said period.

We have considered the materials on record. A large volume of narcotics was recovered from the possession of the petitioner. Investigation reveals complicity of co-accused in the crime and detention of the petitioner was necessary for progress of investigation particularly apprehension of co-accused who appeared to be member of an organised crime racket. It cannot be said no effort was made to apprehend the co-accused after the first extension was granted. Though the Special Court noted further efforts could have been made balancing the necessities of investigation of one hand with the right of the petitioner to bail, it extended the period of detention for a mere period of 15 days. Charge sheet was filed in the meantime. In this backdrop, it cannot be said that the order of the Special Court is either contradictory or inconsistent with legal principles.

Hence, we are of the opinion no case for statutory bail is made out.

On merits, we note that the date has been fixed for recording evidence.

Keeping in mind the period of detention suffered by the petitioner, we request the trial court to conduct the trial with utmost expedition and conclude the same at an early date preferably within one and half years from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.

Accordingly, the prayer for bail of the petitioner is rejected.

Parties shall communicate this order to the trial court for due compliance.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)