

D/L. 09.
November 1, 2023
rp/gc

CRM (NDPS) 1780 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 25.10.2023 in connection with Belgharia Police Station Case No. 534 of 2021 dated 10.08.2021 under Sections 20(b)(ii)(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Sarfaraj Alam @ Suraj

.... Petitioner

Mr. Debasis Kar

... for the Petitioner.

Mr. Prasun Kumar Dutta,
Mr. Subrata Roy,
Mrs. Manasi Roy

... for the State.

1. Learned Counsel for the petitioner contends that P.W.4 and P.W.5, the alleged seizure witnesses, clearly admitted in their cross-examination that they had signed on blank papers.
2. That apart, the petitioner was arrested on the basis of the statement of the co-accused person about nine days after the initial arrest of the co-accused.
3. The learned Single Judge of this Court *vide* order dated August 3, 2022 had directed the trial to be concluded within six months which has not yet been complied with.
4. Learned counsel for the State opposes the prayer for bail and argues that eight out of twelve witnesses have already been examined.
5. The prosecution is doing its very best to conclude trial early.

6. That apart, it is contended that more than commercial quantity of contraband articles were seized from the petitioner, which was a part of the same transaction. As such, since the trial is on the verge of conclusion, the prayer for bail be rejected.
7. Heard learned Counsel for the parties. We find from the records that the order of the learned Single Judge of this Court passed as long back as in August, 2022 was to conclude the trial within six months. However, we are in the month of November, 2023 and the trial is yet to be concluded. Although the prosecution may not be solely responsible for the delay, such prolonged period of trial cannot be a reason to deny personal liberty to the petitioner.
8. More importantly, P.W.4 and P.W.5, who are the seizure witnesses, have clearly admitted in their cross-examination that they had signed on blank papers. In fact, the photocopies of the certified copies of the deposition of the said two witnesses have been annexed to the present application.
9. In such view of the matter, we find that the case against the petitioner is palpably vitiated by such admission by the seizure witnesses.
10. Moreover, in view of the long period of incarceration which is more than two years, we are inclined to grant bail to the petitioner.
11. Accordingly, CRM (NDPS) 1780 of 2023 is allowed, thereby granting bail to the petitioner on condition of furnishing bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Barrackpore.
12. Moreover, the petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend each and every date of trial and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)