

15 01.11.2023
rkd/ Ct. No.08
cp

C.R.M. (NDPS) No. 1786 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Maidan** P.S. Case No. **111 of 2021** dated **30/12/2021** under Sections **20(b)(ii)(c)/29** of the NDPS Act.

And

In the matter of: - Hasan Ali

....petitioner.

Mr. Joy Chakraborty,
Mr. Sandip Dinda

...for the petitioner.

Mr. Swapan Banerjee,
Ms. Purnima Ghosh

...for the State.

1. The petitioner has prayed for bail on the ground that the trial is being delayed due to laches on the part of the prosecution. That apart, it is submitted that the quantity of articles recovered was just above the commercial quantity. It is further argued that the date fixed for framing of charges was initially September 20, 2022; however, charges were ultimately framed on July 11, 2023.
2. The learned counsel for the State opposes the prayer for bail and submits that out of nine witnesses, one has already been examined and the prosecution is confident that the trial can be concluded within six months. It is further argued that the

recovery was above commercial quantity from all the co-accused persons.

3. Upon hearing the learned counsel for the parties, we find from the order-sheet of the trial court annexed to the present application that at least on two dates, that is, on August 5, 2023 and on September 8, 2023, the trial was adjourned due to absence of the prosecution. That apart, learned counsel for the State has handed over the copy of an order dated March 23, 2023 which indicates that as the Presiding Officer of the trial court was absent for a long time, summons could not be issued against the witnesses.
4. Further, we find no justification for the extreme delay of about ten months in framing of the charges after the initial date was fixed for such purpose on September 20, 2022.
5. Moreover, since the quantity of contraband articles recovered was nearly 400 grams above the commercial quantity of 20 kg that too from all the co-accused persons on aggregate, we are of the opinion that the rigours of the NDPS Act need not be applied to the present case.
6. Accordingly, CRM (NDPS) No. 1786 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Metropolitan Magistrate, Kolkata. The petitioner shall not leave the territorial

jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.

7. The petitioner, further, shall not make any inducement, threat or promise to any person acquainted with the facts and circumstances 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.)

