

D/L. 29.
November 1, 2023
rp/gc

CRM (NDPS) 1800 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 26.10.2023 in connection with Special Task Force (STF) Police Station Case No. 26 of 2020 dated 05.12.2020 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Halim Sekh

.... Petitioner

Mr. Joy Chakraborty,
Mr. Sandip Dinda

... for the Petitioner.

Mr. Swapan Banerjee,
Mr. Aniket Mitra

... for the State.

1. Learned Counsel for the petitioner contends that the petitioner is in custody for about two years and eleven months. It is argued that the trial is proceeding at a slow pace and that the same was adjourned on the prayer of the prosecution on several occasions.
2. Such contentions are controverted by learned Counsel for the State who argues that more adjournments than the prosecution have been taken by the petitioner himself.
3. We find from the submission of the parties that out of nine witnesses in total, only one has been examined till date.
4. Although it has been argued by the State that the quantity of contraband article seized was huge, being to the tune of 3.749 kg of heroin, the same is a subject matter for consideration in the trial. While considering an application for bail, the pivot of consideration is not whether the petitioner

is guilty or not, which is only a subject matter of trial, but as to whether the personal liberty of the petitioner should be restrained further, taking into purview the fact as to whether further custodial trial is necessary. In the present case, since the petitioner is already in custody for two years and eleven months and the trial is at its inception, since only one out of the total eight/nine witnesses has been examined till date, we are of the opinion that further incarceration of the petitioner, who is presumed to be innocent unless convicted by a competent court, is unnecessary.

5. Accordingly, CRM (NDPS) 1800 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 Chief Metropolitan Magistrate, Calcutta.
6. 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.
7. It is expected that the trial shall be expedited as far as possible.

(Sabyasachi Bhattacharyya, J.)

(Partha Sarathi Chatterjee, J.)