

02.11.2023
Court No.8
(D/L 02)
(AK)

CRM (NDPS) 1802 OF 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 25.10.2023 in connection with NDPS Case No. 38 of 2019 arising out of NCB Crime No. 23/NCB/KOL/2019 dated 13.12.2019 under Section 8(c) read with Section 20(b)(ii)(C)//27A/28/29 of the N.D.P.S. Act, 1985.

And

In the matter of: **Mohammed Chand**

... Petitioner.

Mr. Malay Bhattacharyya

... for the petitioner.

Mr. Dhiraj Trivedi,
Mr. Sagar Saha

... for the NCB.

1. Heard Shri Malay Bhattacharyya, learned counsel for the applicant and Shri Dhiraj Trivedi, learned Deputy Solicitor General, Government of India.

2. This is the fourth time that bail application has been filed by the applicant praying for bail in NDPS Case No. 38 of 2019 arising out of NCB Crime No. 23/NCB/KOL/2019 dated 13.12.2019 under Section 8(c) read with Section 20(b)(ii)(C)//27A/28/29 of the N.D.P.S. Act, 1985 pending in the Court of Judge, Special Court/Additional District Judge, 4th Court, Malda.

3. Learned counsel for the applicant submits that the applicant is languishing in jail since 11.10.2019 and charges have not yet been framed. He submits that on account of such a long delay in framing

the charges, the applicant deserves to be enlarged on bail. He further submits that other co-accused persons have been granted bail.

4. Learned Deputy Solicitor General, Government of India has vehemently opposed the bail. He submits that the delay in framing of the charges is totally attributable to the applicant. He submits that bail application of the applicant was rejected thrice by orders dated 06.05.2022, 23.02.2023 and 06.07.2023. He submits that the Court may also peruse true copy of the order sheet filed along with the bail petition which discloses that original records of the case remained with the High Court and it was returned only to the Trial Court on 28.08.2023. The records were summoned at the instance of the applicant in CRR No. 2421 of 2022. He further submits that against the order dated 09.07.2020 passed in CRM 4519 of 2020 with CRAN 2671 of 2020 regarding extension of period, the petitioner preferred a Special Leave to Appeal (Crl.) No. 5966 of 2020. He submits that the applicant is the driver of the truck from which 391.40 kg ganja was recovered and thus the applicant was the person in charge of the vehicle from which ganja was recovered. The case of the co-accused stands on a different footing and no parity can be claimed on that basis.

5. We have carefully considered the submissions of the parties.

6. We find that the bail application of the applicant was rejected thrice by this Court by order dated 06.05.2022 in CRM 3886 of 2021,

order dated 23.02.2023 in CRM (NDPS) 276 of 2023 and order dated 06.07.2023 in CRM (NDPS) 1067 of 2023.

7. The most recent rejection of the bail application of the applicant is dated 26.07.2023. No new circumstances have neither been brought to our notice, nor have been argued.

8. Under the circumstances, we do not find the present case to be a fit case for grant of bail. Accordingly, the bail application of the applicant is rejected.

9. However, considering the facts and circumstances of the case, we expect that the trial shall be concluded by the Trial Court expeditiously, preferably within a year.

10. Subject to the above observation, the bail application is rejected.

(SURYA PRAKASH KESARWANI, J.)

(SABYASACHI BHATTACHARYYA, J.)