

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

24.08.2023
Court No.1
Item. 05
(Suvendu)

CRM(NDPS) 601 OF 2023

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Dinhata Police Station Case No. 338 of 2019 dated 09.08.2019 under Section 20(C) of the NDPS Act, 1985.

And

In the matter of: Dipak Pradhan @ Dipak Prodhan
.....Petitioner.

Mr. Arjun Chowdhury
Ms. Pratusha Dutta Chowdhury
Ms. Riya Agarwal

For the Petitioner.

Mr. Abhijit Sarkar
Ms. Namrata Das

For the State.

1. The matter was kept today for learned counsel for the prosecution to inform the Court of the progress in the trial.
2. Admittedly, the petitioner has been in custody for over four years and charges were framed on 7th April, 2021. We find that at least five days were fixed for examination of witnesses from 29th April, 2021 to 20th June, 2022 but there has been no progress in the trial. C.S.W. 1 was examined on 29th June, 2022 and the next date has been fixed on 6th October, 2023. There are total 10 witnesses in the matter.

3. Learned counsel appearing for the State opposes the prayer for bail.

4. We have shown an order passed by the Supreme Court in *Amit Singh Moni Vs. State of Himachal Pradesh* in Criminal Appeal no. 668 of 2020 where the appellant was in custody for 2 years and 7 months and the Supreme Court was of the view that the appellant should be released on bail and the trial court should be directed to conclude the trial expeditiously. 3285 grams of Charas was found concealed in the vehicle occupied by the five persons including the appellant in the case before the Supreme Court.

5. We have been also made aware of a subsequent order passed by the Supreme Court in CrI. No(s). 4169 of 2023, *Rabi Prakash Vs. The State of Odisha* where the appellant was in custody for about three and half years and the Supreme Court was of the view that the life guaranteed under Article 21 of the Constitution could not be violated by prolong incarceration.

6. The above factors persuade us to grant the prayer for bail and we are of the view that the petitioner has been able to rebut the statutory restriction under Section 37 of the NDPS Act.

7. We accordingly direct that the petitioner shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Additional Sessions Judge, 1st Court, Coochbehar (NDPS). The petitioner shall not induce witnesses or influence them or tamper with the evidence. The petitioner shall report to the I.O. of the concerned Police Station once every fortnight and shall not leave the local limits of the local police station without

leave of the learned Special Court (Under NDPS Act) at Coochbehar. The petitioner shall also make himself available for the each date of the trial and also as and when the petitioner is required.

8. CRM(NDPS) 601 of 2023 is accordingly allowed and disposed of in terms of the above.

(PRASENJIT BISWAS, J.)

(MOUSHUMI BHATTACHARYA,J.)