

AD-28
Ct No.01
Jalpaiguri
13.09.2023
B.Pal

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 666 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.08.2023 in connection with Bagdogra Police Station Case No. 171 of 2017 dated 03.07.2017 under Sections 20(b)(ii)(c) of the NDPS Act, 1985.

And

In the matter of: **BALKAR SINGH**

Ms. Kakali Bose,

... for the petitioner

Mr. Aditi Shankar Chakraborty,
Mr. Aniruddha Biswas

... for the State

1. Learned counsel for the petitioner argues that the petitioner is in custody for six years. It is argued that on the last occasion when the application of the petitioner was rejected by a coordinate Bench, specific directions were passed by the Division Bench to the effect that the prosecution witness shall appear on the date to be fixed by the Trial Court and the District Additional Public Prosecutor was to ensure compliance of the order by ensuring that the prosecution witnesses and more particularly the official witnesses are present on the date to be fixed by the Trial Court.

2. Learned counsel further points out that in paragraph 3 of the said order, a direction was given that the trial court was to conclude the trial preferably within a period of six months from the next date fixed without granting any adjournment to the parties.
3. Learned counsel for the State opposes the prayer for bail and argues that the State is not sitting idle. 14 out of the 18 witnesses have already been examined. It is submitted that if further three months' time is given to the State, the trial would be concluded.
4. Keeping in view the fact that the trial is on the verge of conclusion, although there might have been occasions of adjournment for unavoidable reasons, we are of the opinion that the trial court ought to be given further three months' time to conclude the trial in terms of the submission of the State.
5. Further keeping in view the fact that the petitioner is a resident of Punjab and the nature of the offence, we are not inclined to grant bail at this stage.
6. Accordingly, CRM (NDPS) 666 of 2023 is disposed of by directing the Trial Court to positively conclude the trial within three months from this date.
7. Needless to say, the riders put in by the coordinate Bench in the order dated June 16, 2023, regarding non-grant of

adjournment etc, shall also be adhered to by the Trial Court strictly. Leave is granted to the petitioner, in the event the trial is not concluded within further three months, to renew his prayer for bail, in which case it would be open to the petitioner to argue the inordinate period of incarceration as a ground for bail.

8. Let this order be communicated immediately to the Trial Court through the Registry. That apart, the Trial Court shall also act on the communication of learned counsel for the parties, coupled with server copy of this order.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)