

JPD-40
Ct No.01
22.09.2023
TN

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (NDPS) 771 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with CR (NDPS) Case No. 02 of 2015, arising out of 04/NDPS/CL/CUS/P&I-SLG/2014-15 dated 11.01.2015 corresponding to File No. VIII (10) 17/CUS/P & I-SLG/14-15 dated 11.01.2015 under Sections 20(b)(ii)(c) read with Section 29(1) of the NDPS Act, 1985.

And

In the matter of: Md. Hasanur Molla

.... petitioner

Mr. Arunava Paul

... for the petitioner

Mr. Biswaraj Agarwal,
Mr. Shankar Sarkar

... for the UOI

1. Learned counsel for the Union of India (Customs) seeks an adjournment in the matter in view of non-availability of counsel.
2. This is the last day of this Circuit and we find no reason why the respondent could find no time to make alternative arrangement if counsel for the Union could not be present today.
3. Moreover, the petitioner, as we find from the records, is already in custody for about 8 years and 8 months, which is an inordinate period of incarceration for an under-trial, whatever may be the alleged offence.
4. That apart, it is evident from the delay in making this application for bail for the first time during the entire period of incarceration

that the petitioner is not well-placed in Society, either financially or connection-wise. Hence, a special privilege is required to be given to the petitioner insofar as access to justice for the marginalized is concerned.

5. Hence, we refuse the prayer for adjournment made by the respondent.
6. Accordingly, on the ground of inordinate incarceration, CRM (NDPS) 771 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner shall furnish a bond of Rs.1,000/-, with one surety, who must be local, to the satisfaction of the learned Judge, Special Court (NDPS Act), Siliguri.
7. 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.
8. Further, the petitioner shall not, directly or indirectly, 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.)

(Uday Kumar, J.)