

29.01.2024.
19.
Ct.No.28
as
(Rejected)

C.R.M. (NDPS) 177 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.04 of 2022 arising out of Kaliachak P.S. Case No.1439 of 2021 dated 27.12.2021 under Sections 21(c)/29 of the NDPS Act read with Section 27A of the Drugs and Cosmetics Act.

In the matter of : **Soumen Mandal @ Somen Mandal.**
... Petitioner.

Mr. Arnab Saha,
Mr. Abhimanyu Banerjee.
...for the Petitioner.

Mr. Swapan Banerjee,
Mr. M. F. A. Begg.
...for the State.

1. Petitioner contends he is in custody for more than two years. There is delay in framing charge. Hence, he prays for bail.

2. Learned Advocate for the State opposes the bail prayer. He contends delay was due to non-appearance of co-accused.

3. We have considered the materials on record. Bail prayer of the petitioner was rejected in September, 2023. Trial court was requested to consider the framing of charge within two months from the next date fixed before the said Court. The said order had not communicated till December, 2023. In the meantime, dates were fixed in October and December, 2023 but charge could not be framed due to absence of co-accused. Thereafter, in January, 2023 the order of this Court

was noted and the trial court issued non-bailable warrants of arrest against co-accused who were evading the proceeding.

4. These circumstances show petitioner and co-accused are acting in concert to delay the consideration of charge. Prosecution cannot be made responsible for the delay.

5. Under such circumstances, we are not inclined to grant bail to the petitioner.

6. Accordingly, prayer for bail of the petitioner is rejected.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)