

31.01.2024
Sl. No.16
akd
[Rejected]

C. R. M. (NDPS) 194 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.01.2024 in connection with Islampur Police Station Case No.16 of 2022 dated 08.01.2022 under Sections 21(c)/29 of the NDPS Act. (NDPS Case No.16 of 2022)

And

In Re: ***Nur Alam Sk.***

... .. Petitioner

Mr. Tapan Dutta Gupta
Mr. Sayantan Hazra

... .. for the petitioner

Ms. Rituparna De Ghose

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than two years. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits delay in the matter is due to abscondence of co-accused.
3. We have considered the materials on record. Statements of witnesses including contemporaneous document i.e. seizure memo disclose recovery of narcotic substance i.e. 112 bottles of *phensedyl syrup* containing *codeine phosphate*, which is above commercial quantity from a motorcycle. Petitioner and one Saiful Islam were riding the motorcycle. Delay in the matter is due to abscondence of co-accused who has been enlarged on bail. Under such circumstances, we are of the opinion there are ample materials to show petitioner was transporting narcotics above commercial quantity and in view of the statutory restrictions under Section 37 of the NDPS Act, we are not inclined to grant bail to the petitioner on merits.

4. On the score of delay, we record that delay in the matter was due to abscondence of co-accused and cannot be attributed to laxity on the part of the prosecution. Hence, we are not inclined to grant bail to the petitioner on the ground of delay also.
5. The application for bail is thus rejected.
6. Trial court is directed to take prompt steps for consideration of charge and in the event co-accused do not cooperate, to issue appropriate processes against them to ensure their attendance and if their attendance cannot be procured inspite of exhaustion of processes, to declare them as proclaimed offenders and proceed with the matter in accordance with law.
7. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)