

06.02.2024
Sl. No.10
akd
[Rejected]

C. R. M. (NDPS) 230 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 31.01.2024 in connection with Suti Police Station Case No.49 of 2022 dated 26.01.2022 under Sections 22(c)/29 of the NDPS Act. (NDPS Case No.49 of 2022)

And

In Re: ***Ajikul Alom @ Saheb***

... .. Petitioner

Mr. Dipankar Mondal

... .. for the petitioner

Mr. Madhusudan Sur .. Id. Addl. Public Prosecutor
Mr. Arindam Sen

... .. 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 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. 19600 pieces of *Yaba* tablets, which is above commercial quantity from the petitioner and co-accused. Bail prayer of the petitioner was rejected on merits in April, 2023. Thereafter though the petitioner is in custody, trial could not proceed due to abscondence of co-accused. Processes have been issued by the trial court to ensure their attendance but to no avail. Delay in the matter cannot lie at the doorstep of the prosecution. Hence, we are not inclined to grant bail to the petitioner either on merits or on the ground of delay in trial.
4. The application for bail is thus rejected.

5. Trial court is directed to exhaust all processes for attendance of co-accused and if their attendance cannot be secured inspite of exhaustion of all processes, to declare them as proclaimed offenders and proceed to the next stage of trial against the petitioner.
6. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)