

07.02.2024
Sl. No.10
akd
[Rejected]

C. R. M. (NDPS) 239 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 30.01.2024 in connection with Kaliganj Police Station Case No.626 of 2022 dated 23.09.2022 under Sections 20(b)/25/29 of the NDPS Act. (NDPS Case No.74 of 2022)

And

In Re: ***Biman Kishore Sen***

... .. Petitioner

Mrs. Karabi Roy

... .. for the petitioner

Mr. Sudip Ghosh
Mr. Subrato Roy

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than sixteen months. 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. 52 kgs. of *Ganja*, which is above commercial quantity from the petitioner. Delay in the matter is due to abscondence of co-accused and cannot be attributed to the prosecution. Under such circumstances and in view of the statutory restrictions under Section 37 of the NDPS Act, 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 his attendance cannot be secured inspite of

exhaustion of all processes, to declare him as proclaimed offender 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.)