

19.02.2024
Sl. No.15
akd
[Rejected]

C. R. M. (NDPS) 283 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 05.02.2024 in connection with Belgharia Police Station Case No.534 of 2021 dated 10.08.2021 under Sections 20(b)(ii)(c)/29 of the NDPS Act.

And

In Re: ***L.G. Dharambir Singh***

... .. Petitioner

Mr. Debasis Kar

... .. for the petitioner

Mr. Binay Panda
Mr. Arif Ekbar Molla

... .. for the State

1. It is submitted on behalf of the petitioner that he is in custody for more than two years and six months. It is further submitted inspite of direction given by this court to conclude trial within a specified time frame, trial has not concluded. Co-accused viz. Sarfaraj Alam @ Suraj has been enlarged on bail. Accordingly, he prays for bail.
2. Learned Advocate for the State opposes the prayer for bail and submits petitioner does not stand on the same footing with co-accused viz. Sarfaraj Alam @ Suraj who has been enlarged on bail. Delay in the matter cannot be attributed to the prosecution.
3. We have considered the materials on record. Evidence of the official witnesses show narcotics i.e. 330 kgs. of *Ganja* was recovered from a truck. Petitioner was present in the truck. Pursuant to the petitioner's statement, complicity of co-accused viz. Sarfaraj Alam @ Suraj transpired and 27 kgs. of *Ganja* was recovered from him. In this backdrop, it cannot be said petitioner stands on the same footing with co-accused viz. Sarfaraj Alam @ Suraj who has been enlarged on bail.

4. It is also pertinent to note impact of independent witnesses resiling from their previous statements and not supporting the prosecution case must be assessed in the light of the consistent evidence of the official witnesses and documentary evidence showing recovery of narcotics from a truck where petitioner was present. Trial has progressed considerably and eight witnesses have been examined till date. Delay in the matter cannot be attributed to the prosecution wholly. 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.
5. The application for bail is thus rejected.
6. Trial court is directed to expedite the trial and conclude the same at an early date preferably within six months from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.
7. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)