

23.04.2024
Sl. No.2
akd
[Rejected]

C. R. M. (NDPS) 539 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 22.12.2023 in connection with NDPS Case No.4 of 2022 arising out of NCB Crime No.02/NCB/KOL/2022 dated 30.01.2022 under Sections 8(c)/21(c)/25/29 of the NDPS Act.

And

In Re: ***Mohammed Hassan @ Mohammed Hassen***
... .. Petitioner

Mrs. Karabi Roy
... .. for the petitioner

Mr. Dhiraj Trivedi .. Id. Dy. Solicitor General of India
Mr. Sagar Saha
... .. for the NCB

1. It is submitted on behalf of the petitioner that he is in custody for about two years and three months. It is further submitted there is inordinate delay in trial. Accordingly, he prays for bail.
2. Report is placed on record.
3. Learned Deputy Solicitor General submits on the last schedule one witness was present but could not be examined as the Presiding Officer was absent.
4. We have considered the materials on record. Narcotics i.e. 7 kgs. of *Heroin* was recovered from a truck. Petitioner was one of the drivers of the truck. Trial is in progress. One witness has already been examined. Examination of the witness could not take place during the last schedule as the Presiding Officer was absent. Prosecution cannot be made responsible for such delay. Prosecution assures this court that trial shall be concluded within six months from the next date fixed for recording evidence subject to cooperation by the defence and systemic delays. 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.

5. The application for bail is thus rejected.
6. We direct the trial court to expedite the trial in the light of the assurance given by the prosecution.
7. Parties shall communicate a copy of this order to the trial court for due compliance.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)