

3.
03-07-2024
(ct. no.28)
debajyoti
(allowed)

CRM (NDPS) 794 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Chopra Police Station Case No.741 of 2021 dated 08-11-2021 under Sections 20(b)(ii)(c)/27A/28/29 of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Fakaruddin @ Fakruddin

.... Petitioner.

Mr. Rajiv Lochan Chakraborty,
Mr. Sumanta Ganguly,
Mr. Priyanjit Kundu

... For the Petitioner.

Mr. Prasun Kumar Dutta,
Mr. Sobhan Gani

... For the State.

The State has filed a report today, in terms of the earlier order dated May 10, 2024. Let the same be kept with the records.

From the report, we do not find any satisfactory explanation for the inordinate delay in progress of the trial. Charge sheet was filed in May, 2022. Learned advocate for the State tells us that the issue of framing charges is scheduled on July 17, 2024. 2 years and 2 months have elapsed since the filing of charge sheet. The issue of consideration of charge has not yet been taken up by the learned trial Court.

The petitioner is in custody for 969 days. Justifiably he is aggrieved. There are 8 charge-sheet named witnesses. There is no possibility of early conclusion of the trial. In fact, the trial has not yet begun.

Learned advocate for the State says that 2100 kg. of *Ganja* having been recovered from the petitioner, he should not be granted bail.

We are conscious of the restrictions in Section 37 of the NDPS Act. However, a citizen's fundamental right to personal liberty and speedy trial must override all other considerations including the restrictions in Section 37 of the NDPS Act.

Therefore, purely on the ground of delay in progress of the trial for no fault of the petitioner, we grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Fakaruddin @ Fakruddin**, shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, 1st Special Court under NDPS Act, Raiganj, Uttar Dinajpur. The petitioner shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of the local police station and shall report to the Officer-in-Charge of the said police station once every fortnight, until further orders.

In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail being CRM (NDPS) 794 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)