

19.06.2024
Sl. No.28
akd
[ALLOWED]

C. R. M. (NDPS) 805 of 2024

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 03.05.2024 in connection with Gaighata Police Station Case No.323 of 2022 dated 13.04.2022 under Section 21(c) of the NDPS Act.

And

In Re: ***Subho Halder @ Subho Howlader***

... .. Petitioner

Mr. Angshuman Chakraborty
Mr. Shashanka Shekhar Saha

... .. for the petitioner

Mr. Manoranjan Mahata

... .. for the State

Read order dated June 13, 2024

A coordinate Bench had adjourned the matter till today to see whether or not any progress is made on June 13 & June 14, 2024, which were fixed as dates for recording of further evidence.

Learned Advocate for the petitioner says that nothing happened on those two dates. There was no progress at all. No witnesses turned up.

Learned Advocate for the State says that the witnesses who were proposed to be examined on those two dates are BSF personnel who are on duty elsewhere and hence could not be present.

Whatever the reason may be, the fact remains that on the last two dates, no progress could be made at all. The petitioner is in custody for two years and three months. Witness action has not yet begun. The Hon'ble Apex Court requested the learned trial court to conclude the trial at an early date by the order dated October 9, 2023. However, there does not seem to be any possibility of early conclusion of trial.

In the facts and circumstances of the case, we are of the view that the importance of the petitioner's right to personal liberty overrides

the restrictions under Section 37 of the NDPS Act and the petitioner is entitled to be enlarged on bail.

Accordingly, we direct that the petitioner, namely **Subho Halder @ Subho Howlader**, shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act-cum-Additional Sessions Judge, 6th Court, Barasat, North 24-Parganas subject to condition that the present petitioner shall appear before the learned trial court on each date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973. The petitioner shall remain within the jurisdiction of the trial court till conclusion of trial unless such conditions have been relaxed by the learned trial court.

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 and/or commit any cognizable offence in any manner whatsoever.

In the event the petitioner fails to adhere to any of the conditions stipulated above without any justifiable cause, the learned trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this Court.

The application for bail being CRM (NDPS) 805 of 2024 is accordingly disposed of.

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

(Arijit Banerjee, J.)

(Gaurang Kanth, J.)

