

CRM (NDPS) 827 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Barasat Police Station** Case No. **278 of 2022** dated **27.04.2022** under Sections **21(C)/29** of the NDPS Act.

- A n d -

In the matter of : Sourav Karmakar Alias Gadai

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. Sekhar Saha,

... For the Petitioner.

Mr. Atif Ahmed Siddiqui,

... For the State.

Allegedly commercial quantity of codeine mixture was recovered from the petitioner and another person. That person passed away while in custody.

The petitioner had moved a criminal revisional application being CRR 2436 of 2023 for expeditious disposal of the trial. By an order dated August 14, 2023, a learned Judge of this Court disposed of such application with the following directions:-

“Learned trial court is directed that in case any witnesses is not appearing on the date so fixed, learned trial court would communicate with the Superintendent of Police of the concerned district who would communicate with the concerned witness who belongs to the Government Department or any other witness who have been cited for the purpose of this case and ensure to the court regarding his appearance on the date so fixed. No unnecessary adjournment should be granted to either of the parties. Learned trial court would in the circumstances fix a schedule consisting of three dates and such schedule be fixed once in every three months so that the trial of the case can be taken to its logical conclusion within a reasonable period of time. The public prosecutor

conducting the case would produce the materials, exhibits and documents on the date fixed for examination of the witnesses' concerned. All stakeholders should co-operate with the learned trial court for concluding the trial at the earliest."

The petitioner says that in spite of the aforesaid direction, no substantial progress has been made in the trial. The petitioner is in custody for two years and two months.

Learned Advocate for the State says that there is no fault on the part of the prosecution. The presiding officer was on leave for quite some time. Thereafter, the presiding officer was transferred. The interruption in progress of the trial cannot be attributed to the prosecution. Two out of eleven witnesses have been examined.

We have considered the rival contentions of the parties. It appears that the direction passed by the learned Single Judge in the criminal revisional application has not been followed, for whatever reason. The concept of personal liberty enshrined in Article 21 of the Constitution of India has to be given due importance. Since investigation is complete and the trial has not progressed at the desired pace and since nobody can predict when the trial will reach its logical conclusion, we are inclined to enlarge the petitioner on bail on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Sourav Karmakar Alias Gadai**, 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 Special Judge under the NDPS Act, Barasat, North 24 Parganas, and on

further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. 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.

In the event the petitioner fails to adhere to any of the conditions stipulated above without justifiable cause, the 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 is, accordingly, allowed.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)