

12.
Court
No.28

11.06.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 874 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Kaliachak Police Station Case No. 762 of 2020**, dated **03.10.2020** under Sections **21(C)/29** of the NDPS Act, 1985.
And

In the matter of: - **Sajib Akhtar @ Sazib Aktar**

...petitioner.

Mr. Amitabha Karmakar, Adv.,
Mr. Arup Kumar Bhowmick, Adv.

...for the petitioner.

Mr. Bibaswan Bhattacharya, Adv.,
Ms. Debadrita Mondal, Adv.

...for the State.

Commercial quantity of heroin was seized from the joint possession of the petitioner and another accused person.

The petitioner’s prayer for bail was refused earlier on several occasions, lastly on May 12, 2023.

Learned Advocate for the petitioner says that by an order dated April 17, 2023, whereby the bail application of the co-accused namely, Rajib Aktar @ Rajib Akhtar, being CRM (NDPS) 753 of 2023, was rejected by a co-ordinate Bench, the Bench had also directed the Trial Court to conduct the trial as expeditiously as possible *“preferably within one year from the next date fixed for recording evidence without granting unnecessary adjournment to either of the parties.”* Learned Advocate says that in spite of such direction, only two out of ten

witnesses have been examined till date. It is anybody's guess as to when the trial shall conclude. The petitioner has already been in custody for about three years and eight months.

Learned Advocate for the State says that as much as possible, the trial has been expedited. Due to certain reasons beyond the control of the learned Trial Court the trial is yet to conclude. There is clinching evidence against the petitioner. Keeping in mind the restriction in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the petitioner's prayer for bail should not be allowed.

We have considered the rival contentions of the parties. We are constrained to observe that there has been inordinate delay in the progress of the trial. A co-ordinate Bench had directed the learned Trial Court to conclude the trial within one year. Such time has also elapsed. There is no possibility of the trial concluding at an early date. The concept of personal liberty enshrined in Article 21 of the Constitution of India must be given due importance. In such a case, Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, would not stand in the way of granting bail.

Accordingly, we direct that the petitioner, namely, **Sajib Akhtar @ Sazib Aktar**, shall be released on bail upon furnishing a bond of Rs.25,000/- with two registered sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional District Judge, Special 3rd Court (under NDPS Act) Malda, 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 learned Trial Court till conclusion of trial unless such conditions have been relaxed by the learned Trial Court.

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) 874 of 2024 is thus allowed and disposed of.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)