

51. 14.06.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 927 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with NDPS Case No. **N-97 of 2021** arising out of **Dum Dum Police Station Case No. 1203 of 2021**, dated **08.11.2021** under Sections **21(c)** of the NDPS Act, 1985, read with Section 14 of the Foreigners Act.
And

In the matter of: - **Monirul Gazi @ Moni**

...petitioner.

Mr. Debasis Kar, Adv.,
Ms. Jagori Mitra, Adv.

...for the petitioner.

Mr. Iqbal Kabir, Adv.,
Ms. Jonaki Saha, Adv.

...for the State.

The petitioner is one of the two accused persons in this NDPS case. It appears that commercial quantity of contraband was recovered from the possession of the petitioner. He is in custody for about two years and seven months. He says that only two out of ten witnesses have been examined till date. It is anybody's guess as to when the trial will conclude. He should be released on bail.

Learned Advocate for the State opposes the prayer for bail. He says that the trial could not proceed at the desired pace because of various factors beyond the control of the prosecution. The next date of recording of evidence is fixed on June 21, 2024. Bail should not be granted at this stage.

We have considered the rival contentions of the parties. Charge-sheet was filed on January 31, 2022. The charge was

framed on April 4, 2023, i.e., after 15 months. Witness action started thereafter on June 16, 2023. No appreciable progress has been made in the trial. At the pace the trial is proceeding a few years would take for the trial to conclude.

Personal liberty of a citizen cannot be undermined. It is perhaps the most important fundamental right guaranteed by the Constitution of India. A citizen cannot be kept behind the bars for an indefinite period of time on the plea that the trial is continuing. A citizen's fundamental rights include the right to receive speedy justice.

In view of the aforesaid, we are of the opinion that the restriction in Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, will not apply. We are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Monirul Gazi @ Moni**, shall be released on bail upon furnishing a bond of Rs.25,000/- (Twenty Five Thousand) with two registered sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (under NDPS Act) Barrackpore, 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 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) 927 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.)

(Apurba Sinha Ray, J.)