

19.06.2024
Item no. 21.
Court No.28.
as
(Allowed)

CRM (NDPS) 934 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure in connection with NDPS Case No.12 of 2022 arising out of Falta Police Station Case No.24 of 2022 Dated 24.01.2022 under Section 21(C) of the NDPS Act.

And

**In the matter of : Yeasin Doptori @ Yeasin Daptari @ Ashik.
.....Petitioner.**

Mr. Angshuman Chakraborty,
Mr. S. S. Sahafor the Petitioner.

Mr. Arnab Chatterjee,
Ms. Nahid Ahmedfor the State.

Approximately 11.8 ltrs of codeine mixture was recovered from the possession of the petitioner.

The petitioner says that he is in custody for two years and four months. There is no possibility of early conclusion of the trial. His fundamental right to personal liberty is being infringed.

Learned Advocate for the State says that the delay in the trial is not due to any fault on the part of the prosecution. On several occasions, the presiding officer was on leave.

We are not inclined to go into the question whether it was fault on the part of the State that caused delay in the progress of the trial. It is nobody's case that the petitioner is

responsible for the delay in the trial. He has been in incarceration for two years and four months. No citizen can be kept behind bars indefinitely on the plea that there is delay in the progress of the trial.

Hence, inspite of commercial quantity of contraband being involved, we are of the view that the fundamental right to personal liberty under Article 21 of the Constitution of India would warrant that the petitioner be enlarged on bail notwithstanding the restrictions under Section 37 of the NDPS Act.

Accordingly, we direct that the petitioner, namely **Yeasin Doptori @ Yeasin Daptari @ Ashik** 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, Alipore, South 24-Paraganas subject to condition that the present petitioner shall appear before the learned Trial court on every 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 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) 934 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.)