

03.07.2024
Item no.23.
Court No.28.
S. De
(Allowed)

CRM (NDPS) No. 1026 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 18.06.2024 in connection with Kaliachak Police Station Case No. 846 of 2021 dated 14.08.2021 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : Nayan Mandal.

.....Petitioner.

Mr. Saryati Datta,
Mr. Chitrak Biswas,

.....for the Petitioner.

Mr. Iqbal Kabir,
Ms. Eshita Dutta,

.....for the State.

The petitioner renews his prayer for bail which was earlier rejected on August 22, 2022. He says that he is in custody for 2 years, 10 months and 10 days. Only 6 out of 16 witnesses have been examined till now. He prays for bail on the ground of delay in progress of trial.

Learned advocate for the State, while opposing the prayer for bail, says that there is sufficient incriminating evidence against the petitioner. 1100 grams of Brown-sugar was seized from his exclusive possession. In view of the restriction in Section 37 of the N.D.P.S. Act, the petitioner's prayer for bail should be rejected.

We have considered the facts and circumstances of the case and the material in the case diary. There may be sufficient incriminating evidence against the petitioner. We make no comment on that. However, we cannot lose sight of a citizen's fundamental right to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India. 2 years 10 months is a pretty long period of time for being in incarceration. Given that 10 witnesses remain to be examined, there does not appear to be any chance of concluding the trial at an early date.

Accordingly, purely on the ground of delay in the progress of trial, we are inclined to grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Nayan Mandal** 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 N.D.P.S. Act, Malda and on further conditions that he shall remain within the jurisdiction of the concerned police station and shall not leave the jurisdiction of the Kaliakachak Police Station and report to the Officer-in-Charge, Kaliachak Police Station once every week.

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 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.

CRM (NDPS) No. 1026 of 2024 is disposed of.

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

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)