

03.07.2024
Item no.20.
Court No.28.
S. De
(Allowed)

CRM (NDPS) No. 1022 of 2024

In Re: An Application for Bail under Section 439 of the Code of Criminal Procedure filed on 25.06.2024 in connection with Raghunathganj Police Station Case No. 783 of 2021 dated 10.12.2021 under Sections 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act.

And

In the matter of : Birendra Kumar Roy.

.....Petitioner.

Ms. Shabana Hasin,
Ms. Samikma Akter Banu,
Ms. Neha Roy,for the Petitioner.

Mr. Atif Ahmed Siddiqui,for the State.

The petitioner renews his prayer for bail which was rejected twice earlier by orders dated July 4, 2023 and February 6, 2024. By the second order, a co-ordinate Bench also directed as follows :

“The Trial court is directed to exhaust all processes for the purpose of ensuring attendance of absconding accused and if their attendance cannot be ensured inspite of exhaustion of such processes to declare them as proclaimed offender and proceed with the trial against the petitioner with utmost expedition.”

The petitioner says that after that order, nothing has progressed in the trial. Even the charge has not been considered. He is in custody for almost 2 years 7 months.

Learned advocate for the State says that the co-accused person is absconding. That has caused the delay in progress of the trial. Warrant of arrest has been issued against that person and he has been declared as proclaimed offender.

We do not find sufficient explanation for the delay in the progress of the trial. Whenever a co-accused person is absconding, appropriate procedure is prescribed in law so that the accused, who is in custody, can be proceeded against and the trial can progress. 2 years 7 months is a long period of time. Charge has not even been considered. It is anybody's guess as to when the trial will commence or conclude. A citizen's fundamental right to personal liberty and speedy trial cannot be undermined in any circumstances.

Therefore, solely on the ground of delay in progress of trial, we grant bail to the petitioner.

Accordingly, we direct that the petitioner, namely, **Birendra Kumar Roy** 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 N.D.P.S. Act, Berhampore, Murshidabad and on further conditions that he shall remain within the jurisdiction of the concerned police station.

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. 1022 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.)