

CRM (NDPS) 1035 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Barasat Police Station** Case No. **235 of 2022** dated **10.04.2020** under Sections **18(c)/28/29** of the NDPS Act.

- A n d -

In the matter of : Ahammad Mondal

.... Petitioner.

Mr. Angshuman Chakraborty,
Mr. S. S. Saha,

... For the Petitioner.

Mrs. Subhashree Patel,
Mr. Bikram Mitra,

... For the State.

The petitioner renews his prayer for bail which was rejected earlier by a coordinate Bench by an order dated January 2, 2024 passed in CRM (NDPS) 2072 of 2023. The petitioner says that since the last rejection nothing has progressed in the trial. He is in custody for about two years and three months. He further says that while rejecting his prayer for bail, the Coordinate Bench had requested the learned Trial Court to conduct the trial with expedition and conclude the same at an early date. Such request has been in vain. Only one out of fourteen witnesses has been examined, and that too, in part. There is no possibility of an early conclusion of the trial. On the ground of delay, the petitioner should be enlarged on bail.

Learned Advocate for the State says that the delay in trial, is not attributable to any laches or default on the part of the prosecution. Two dates fixed for examination of witness were wasted because those dates were declared to be holidays. Some

more time may be granted for conclusion of the trial. Huge quantity of opium was recovered from the exclusive possession of the petitioner. Incriminating evidence against him is sufficient.

We have considered the rival contentions of the parties. No doubt an offender should be taken to task. However, no under trial can be kept in incarceration for an indefinite period of time only on the ground that the trial is yet to be concluded. Two years and three months is a pretty long period of time. Charge sheet was submitted in October, 2022. Charges were framed in November, 2023, i.e., after one year one month from the time of filing of charge sheet. This undue delay is completely unacceptable and has not been explained. Since then only one witness has been examined out of fourteen. We see no possibility of an early conclusion of the trial.

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

Accordingly, we direct that the petitioner, namely, **Ahammad Mondal**, 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 Additional Sessions Judge, 6th Court-cum-Special Court, under the NDPS Act, Barasat, North 24 Parganas and on further conditions that he shall not leave the jurisdiction of the concerned police station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. 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 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.

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

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)