

22. 11.07.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1058 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with **Kaliachak Police Station Case No. 892 of 2022**, dated **15.08.2022** under Sections **21(C)/27A/29** of the NDPS Act, 1985.

And

In the matter of: - **Esab Mia**

...petitioner.

Mr. Debasis Kar, Adv.

...for the petitioner.

Mr. Atif Ahmed Siddiqui, Adv.

...for the State.

Report filed by the State be kept with the records.

The petitioner’s prayer for bail was rejected twice earlier, on April 10, 2023 and on September 18, 2023. He renews his prayer for bail primarily on the ground of delay in progress of the trial. The petitioner says that he is in custody for one year and eleven months. Only two out of 11 witnesses have been examined till date. There is no certainty as to when the trial will conclude. He prays for bail.

Learned Advocate for the State says that the second witness was examined on July 8, 2024. Another witness was supposed to be examined but he did not turn up.

It appears to us that, practically speaking, it will not be possible for the learned Trial Court to conclude the trial at an early date.

Although 25 bottles of phensedyl syrup was allegedly seized from the petitioner, keeping in mind the importance of the fundamental right to personal liberty and speedy trial as enshrined in Article 21 of the Constitution of India, which must override all other considerations, and considering the already lengthy detention of the petitioner, we allow the petitioner's prayer for bail but on stringent conditions.

Accordingly, we direct that the petitioner, namely, **Esab Mia**, shall be released on bail upon furnishing a bond of Rs.25,000/- (Twenty Five Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court (under NDPS Act) Malda, subject to condition that –

1. The petitioner shall appear before the learned Trial Court on each and every date of substantive hearing subject to the provisions of Section 317 of the Code of Criminal Procedure, 1973.
2. The petitioner shall not leave the territorial limits of the district of Malda, till conclusion of trial unless such conditions have been relaxed by the Trial Court.
3. The petitioner shall furnish the present address where he will be residing to the Officer-in-charge of Kaliachak Police Station immediately after being released on bail and shall also meet the Officer-in-Charge of Kaliachak Police station, once in every fortnight until further orders.

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) 1058 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.)