

06
26-09-2024
(ct. no.28)
S. De
(Allowed)

CRM (NDPS) 1072 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **NCB Crime No. 66/NCB/KOL/2021/** under Sections **8(c)/20(b)(ii)(A)/22(c)/29** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Prabhakar Choudhary.

.... Petitioner.

Mr. Ayan Bhattacharjee,
Mr. Joy Chakraborty,
Mr. Kunal Ganguly,
Mr. Sandip Dinda,

... For the Petitioner.

Mr. Anirban Mitra,
Mr. Sagar Saha,

... For the N.C.B.

Order dictated by Arijit Banerjee, J.

1. The petitioner says that he is in custody for more than 3 years.

Only 5 out of 11 charge-sheet named witnesses have been examined. He draws our attention to the orders dated March 12, 2024 passed in CRM (NDPS) 477 of 2024 and dated April 16, 2024 passed in CRM (NDPS) 573 of 2024. By the said orders two co-accused persons namely, Sadiq Vali @ RAX and Sudhir Kumar have been enlarged on bail by a co-ordinate Bench solely on the ground of delay in progress of trial. In the order dated April 16, 2024, the Co-ordinate Bench noted that there is little possibility of trial concluding in the near future.

2. Learned advocate for NCB strongly opposes the prayer for bail.

He says that there is connection between the present petitioner and the prime accused who is the kingpin. He also says that

there is a money trail leading to this petitioner and Call Detail Reports also indicate involvement of the petitioner.

3. The prosecution may have a very strong case. We are not on merits. The fundamental right of a citizen to personal liberty and speedy trial must override all other considerations. If there is sufficient evidence against the petitioner, he shall suffer conviction. However, that cannot be a justification for keeping an undertrial indefinitely in incarceration. Only 5 out of 11 witnesses have been examined. The chance of an early conclusion of the trial is very bleak.
4. Solely on the ground of inordinate delay in progress of the trial, we enlarge the petitioner on bail.
5. Accordingly, we direct that the petitioner, namely, **Prabhakar Choudhary** 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), Calcutta and on further conditions that he shall not leave the jurisdiction of the New Town police station except for attending court proceeding and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
6. 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.
7. 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.

8. NCB is at liberty to keep a vigil over the petitioner.

9. The application for bail is, accordingly, allowed.

10. 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.)