

22. 19.08.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1151 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Rajarhat** Police Station Case No. **217/2022**, dated **19.6.2022** under Sections **22(C)/25/28/29** of the NDPS Act, 1985.
And

In the matter of: - **Firoz Gazi**

...petitioner.

Mr. Angshuman Chakraborty
Mr. S.S. Saha

...for the petitioner.

Mr. Shekhar Barman

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner is in custody for two years and three months. His prayer for bail was rejected earlier on two occasions, lastly on September 8, 2023. He says that only two out of 21 witnesses have been examined. There is no possibility of the trial concluding at an early date. On the ground of delay in progress of trial he prays for bail.

2. While opposing the bail prayer, learned Advocate for the State draws our attention to the material in the case diary. He says that 9900 bottles of phensedyl syrup containing codeine phosphate were recovered from the accused persons including the petitioner. The involvement of the petitioner in the alleged crime is absolutely clear. He also draws to our attention an application for bail filed by a co-accused who had absconded. By an order dated May 3, 2024, passed in CRM (NDPS) 726 of 2024, a co-ordinate Bench, while rejecting the prayer for bail, directed

the Trial Court to conclude the trial as expeditiously as possible, preferably within 18 months from the date fixed for recording evidence.

3. We have considered the facts and circumstances of the case. Although there may be *prima facie* involvement of the petitioner in the alleged crime, we cannot lose sight of the paramount importance of a citizen's fundamental right to personal liberty and speedy trial as contemplated under Article 21 of the Constitution of India. The petitioner has been in incarceration for two years and three months already. There is very little possibility of the trial being brought to an early conclusion. Insofar as the order dated May 3, 2024 is concerned, we understand that the said order was passed on the application of a co-accused who had absconded for a long time. Therefore, 18 months' time was granted. That time-period may not necessarily apply to the present petitioner.

4. Hence, solely on the ground of delay in progress of trial, we are inclined to allow the petitioner's prayer for bail.

5. Accordingly, we direct that the petitioner, namely, **Firoz Gazi** 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-cum-Additional District & Sessions Judge, 6th Court at Barasat, North 24 Parganas, subject to condition that 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, and shall not intimidate

the witnesses and/or tamper with evidence in any manner whatsoever.

6. 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 his bail in accordance with law without further reference to this Court.

7. The application for bail being CRM (NDPS) 1151 of 2024 is accordingly disposed of.

8. 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.)