

23.
Court
No.28

19.08.2024

(Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1153 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 **Katwa** Police Station Case No. **441/2022**, dated **16.7.2022** under Sections **18(b)/25/27A/28/29** of the NDPS Act, 1985.
And

In the matter of: - **Sajid Hasim @ Hasim**

...petitioner.

Mr. Ayan Bhattacharya
Mr. Joy Chakraborty
Mr. Kunal Ganguly
Mr. Sandip Dinda

...for the petitioner.

Mr. Rudradipta Nandi, Ld. APP
Mr. Manoranjan Mahata

...for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected earlier on February 2, 2023. He says that he is in custody for about two years and one month. Intermediate quantity of opium, which is a contraband item, was allegedly recovered on the basis of statements of other co-accused persons. There was no recovery from him. Only five out of 23 charge-sheet named witnesses have been examined. On the ground of delay in progress of trial he prays for bail.
2. While opposing the bail prayer, learned Additional Public Prosecutor draws our attention to the material in the case diary including the seizure list and says that there was recovery of contraband article, albeit of intermediate quantity from this petitioner. It cannot be said that there is no material *prima facie*

indicating involvement of the petitioner in the alleged crime. However, that is a question on merit. He further says that out of 23 witnesses named in the charge-sheet, the prosecution proposes to examine only six more witnesses.

3. We see that for two years and one month the petitioner is in incarceration. The fundamental right of a citizen to personal liberty and speedy trial is of utmost importance and cannot be watered down under any circumstance. We also see that on an application for bail made by a co-accused being CRM (NDPS) 1846 of 2023, by an order dated November 28, 2023, a co-ordinate Bench, while rejecting the prayer for bail, requested the Trial Court to expedite the trial and conclude the same at an early date by fixing schedules at short intervals preferably within two years from the next date fixed for recording evidence. However, the petitioner was not a party to that application and the time-period mentioned therein for completion of the trial may not necessarily apply to the petitioner who has been in custody for a long period of time.

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, **Sajid Hasim @ Hasim** 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 3rd Court under NDPS Act, Purba Bardhaman, 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 and on further condition that the petitioner, while on bail, shall not leave the geographical limits of the district of Purba Bardhaman and shall report to the Officer-in-Charge, Katwa Police Station once in every week until further orders.

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) 1153 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.)