

9.
23-08-2024
(ct. no.28)
debajyoti
(allowed)

CRM (NDPS) 1182 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973/under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with English Bazar Police Station Case No.1806 of 2022 dated 13-12-2022 under Sections 22(C)/27(A)/29 of the Narcotic Drugs and Psychotropic Substances Act.

- A n d -

In the matter of : Sahin Sk.

.... Petitioner.

Mr. Ayan Bhattacharya,
Mr. Rhiddhiman Mukherjee,
Mr. Arka Prabho Roy ... For the Petitioner.

Mr. Arindam Sen,
Ms. Purnima Ghosh ... For the State.

Dictated by Arijit Banerjee, J.

Learned counsel for the petitioner submits that the petitioner has been in incarceration for about 1 year 8 months. During evidence, two seizure list witnesses, who are police personnel, failed to identify the present petitioner on dock. It is submitted that nothing was recovered from his possession. As there is no incriminating material against the present petitioner, he may be granted bail on any condition.

Learned counsel for the State opposes the prayer for bail. He has drawn our attention to the seizure list as well as the Memo of Arrest. He prays for rejection of the bail prayer.

We have considered the material on record including the Case Diary. We are told that four out of fifteen witnesses have been examined. In other words, the chance of an early conclusion of the trial is extremely bleak. We cannot lose sight of a citizen's valuable fundamental right to personal liberty and speedy trial. The petitioner has already suffered incarceration for one year eight months. The prosecution

may have a very strong case. However, the overriding factor must be the petitioner's fundamental right under Article 21 of the Constitution of India.

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

Accordingly, we direct that the petitioner, namely, **Sahin Sk.**, shall be released on bail upon furnishing a bond of Rs.25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Judge, Special Court, Additional District and Sessions Judge, 4th Court, Malda. The petitioner shall appear before the trial Court on every date of hearing and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever. The petitioner shall remain within the jurisdiction of the local Police Station and shall report to the Inspector-in-Charge/Officer-in-Charge of the said police station once in a week, until further orders.

In the event the petitioner fails to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail being CRM (NDPS) 1182 of 2024 is, thus, **allowed**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)