

59. 23.08.2024
Court
No.28 (Tanmoy)

Allowed

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1311 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 **English Bazar** Police Station Case **No. 766/2021**, dated **06.07.2021** under Sections **21(C)/29** of the NDPS Act, 1985.

And

In the matter of: - **Animesh Barman**

...petitioner.

Mr. Sagar Saha
Mr. Nurnobi Seikh

...for the petitioner.

Mr. Anand Keshari
Mr. Asif Dewan

...for the State.

Dictated by Arijit Banerjee, J.

1. This is the fifth application for bail filed by the petitioner. While rejecting his application for bail on April 21, 2023, in CRM (NDPS) 833 of 2023, a co-ordinate Bench had directed the Trial Court to consider the issue of framing of charge at the earliest. Nothing was done. The petitioner again approached the Court on August 1, 2023. While rejecting his prayer, this Court again directed the Trial Court to consider the issue of framing of charge at the earliest. Again nothing was done. The petitioner is in custody for more than three years and one month. We are told till date the charge has not been considered. He prays for bail.
2. While opposing the bail prayer learned Advocate for the State says that two accused persons were granted bail – one statutory bail and another by this Court. Both of them absconded.

Warrant of proclamation has been issued. There is every possibility that if this petitioner is enlarged on bail, he will also abscond.

3. Three years and one month is too long a period of time to keep an under-trial in incarceration without there being any progress in the trial. We are told that there are nine witnesses. At the pace the prosecution is proceeding, it may take years for the trial to come to an end.
4. Without commenting on merits of the case, solely on the ground of inordinate delay in progress of the trial, we allow the petitioner's prayer for bail, but on stringent conditions:
5. Accordingly, we direct that the petitioner, namely, **Animesh Barman** 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, 3rd Court under NDPS Act, Malda, 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 / Section 355 of Bharatiya Nagarik Suraksha Sanhita, 2023, 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 territorial jurisdiction of English Bazar Police Station and shall report to the Officer-in-Charge of English Bazar Police Station once in a 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) 1311 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.)