

61. 23.08.2024  
Court  
No.28 (Tanmoy)

Rejected

IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (NDPS) 1313 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with Kaliachak P.S. Case No. 397/2022 dated 16.4.2022.

And

In the matter of: - **Mosaraf Sk @ Mosraf Sk**

...petitioner.

Mr. Md. Wasim Akram

...for the petitioner.

Mr. Debashis Roy, Ld. PP

Ms. Anasuya Sinha, Ld. APP

Ms. Rajnandini Das

...for the State.

Dictated by Arijit Banerjee, J.

1. This is the petitioner's third application for bail. The first rejection was on November 3, 2022. Against that order, the petitioner had gone up to the Hon'ble Supreme Court. The Hon'ble Supreme Court, by its order dated January 24, 2023, dismissed the Special Leave Petition subject to granting leave to the petitioner to apply afresh for bail considering the progress of the trial. The petitioner's second application was dismissed on June 8, 2023.
2. The petitioner now says that he is in custody for two years and four months. Witness action has not begun. On the ground of delay he may be enlarged on bail.
3. While opposing the prayer for bail, learned Advocate for the State says that 1200 grams of heroin was seized from the residence of the petitioner. The delay in trial is not attributable to the prosecution wholly. Two other accused

persons had absconded. One of them has surrendered after being granted anticipatory bail. Only on three occasions, the prosecution witnesses failed to turn up. Given the huge quantity of heroin involved, a time-period may be indicated within which the trial shall be concluded but the petitioner should not be enlarged on bail.

4. We have considered the facts and circumstances of the case. There is sufficient incriminating material against the petitioner. 1200 grams of heroin is a lot of contraband item. We are not inclined to grant bail to the petitioner although he is in custody for a long time.
5. The application being CRM (NDPS) 1313 of 2024 is accordingly dismissed.
6. However, keeping in mind the importance of a citizen's fundamental right to personal liberty and speedy trial, we direct the learned Trial Court to expedite the trial to the fullest and conclude the same at the earliest and positively within six months from the next date fixed for recording of evidence which, we are told, is September 9, 2024.
7. We make it clear that if the trial is not concluded within the time period indicated hereinabove, the petitioner will be entitled to renew his prayer for bail.
8. This order shall be immediately communicated by the parties to the learned Trial Court.

**(Arijit Banerjee, J.)**

**(Apurba Sinha Ray, J.)**