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26-09-2024
(ct. no.28)
S. De
(Allowed)

CRM (NDPS) 1396 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Gajole Police Station Case No.720/22 dated 04.09.2022 under Section 8(A)(c)/27B** of the Narcotic Drugs & Psychotropic Substances Act 1985.

- A n d -

In the matter of : Om Narayan Gupta.

.... Petitioner.

Mr. Bidish Ghosh,

... For the Petitioner.

Mr. Partha Pratim Das,
Mr. Subham Kanti Bhakat,

... For the State.

Order dictated by Arijit Banerjee, J.

1. The petitioner renews his prayer for bail which was rejected by a co-ordinate Bench on February 22, 2024. He says that he is in custody for about 2 years. Trial has not even started. It is anybody's guess as to when the trial will conclude. There is no recovery of either narcotics or any money from the petitioner in so far as the present case is concerned. He prays for bail.
2. Opposing the prayer for bail, learned State counsel points out that a huge sum of money in connection with drug dealing was recovered from the brother-in-law of this petitioner. The petitioner's sister has stated that the money actually was parked with them by the petitioner. There is sufficient incriminating evidence against the petitioner. Other N.D.P.S. cases are also pending against this petitioner.

3. From the case diary we do not find any such material, prima facie, as would justify continued custodial detention of the petitioner. One cannot be oblivious of a citizen's fundamental right to personal liberty and speedy trial as enshrined under Article 21 of the Constitution of India. The petitioner has been in incarceration for about 2 years. Witness action has not yet begun. There are 20 charge sheet named witnesses. There is absolutely no possibility of early conclusion of the trial. Primarily, on the ground of delay in progress of trial, we allow the petitioner's prayer for bail.
4. Accordingly, we direct that the petitioner, namely, **Om Narayan Gupta** shall be released on bail upon furnishing a bond of Rs. 25,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the Learned Judge, Special Court (under the NDPS Act), Malda and on further conditions that he shall not leave the jurisdiction of the Gangarampur police station except for attending court proceeding and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders.
5. The petitioner shall appear before the trial Court on every date of hearing until further orders 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 justifiable cause, the trial court shall be at liberty to cancel the petitioner's bail in accordance with law without further reference to this court.

7. The application for bail is, accordingly, allowed.

8. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)