

CRM (NDPS) 1375 of 2024

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with **Jalangi Police Station** Case No. **91 of 2023** dated **28.03.2023** under Sections **21(c)/29** of the NDPS Act.

- A n d -

In the matter of : Khalil Molla

.... Petitioner.

Mr. Tapodip Gupta,
Mr. Suman Bhanja,

... For the Petitioner.

Mr. Koushik Biswas,
Mrs. D. Sahu,

... For the State.

Order dictated by Arijit Banerjee, J.:

1. The petitioner renews his prayer for bail which was rejected earlier on February 20, 2024. He complains that he is in custody for more than one year and five months. Not a single witness has been examined. He prays for bail on the ground of inordinate delay in progress of trial and prolonged detention.

2. While opposing the prayer for bail, learned Advocate for the State points out that 150 bottles of phendesyl syrup containing codeine phosphate was recovered from the joint possession of two accused persons including this petitioner. In view of the incriminating material against this petitioner, his prayer should be rejected.

3. We see that that not a single witness has been examined. There are 13 charge sheet named witnesses. The next schedule fixed, we are told, is 4-6 November, 2024. Therefore, the trial has not yet begun. Nobody can say when the trial will conclude.

4. We cannot lose sight of the paramount importance of a citizen's fundamental right to personal liberty and speedy trial. The prosecution may have an excellent case for convicting an under trial. That would by itself not justify prolong incarceration of the under trial without bringing the trial to its logical conclusion at an early date.

5. We see that charge was framed on March 7, 2024. Almost six months have elapsed since then, not a single witness has been examined. There is no chance of an early conclusion of the trial.

6. Solely on the ground of inordinate delay in progress of trial, without commenting on the merits of the case, we enlarge the petitioner on bail.

7. Accordingly, we direct that the petitioner, namely, **Khalil Molla**, 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 Special Judge under the NDPS Act, Berhampore, Murshidabad and on further conditions that he shall not leave the jurisdiction of the concerned police Station and shall report to the Officer-in-Charge of the concerned police station once in a fortnight until further orders. 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.

8. 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.

9. The application for bail is, accordingly, allowed.
10. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Prasenjit Biswas, J.)

(Arijit Banerjee, J.)