

17.09.2024
Item no. 47.
Court No.28.
AB
(Allowed)

CRM (NDPS) 1400 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 Kaliachak Police Station Case No.56 of 2022 Dated 14.01.2022 under Section 21C/27A/29 of the NDPS Act read with Section 25(1B) (a)/27 of the Arms Act and Section 302/34 of the Indian Penal Code

And

In the matter of : Samirul Sk. @ Hasur Petitioner.

Mr. Sourav Chatterjee,
Mr. Aditya Tiwari for the Petitioner.

Mr. Madhusudan Sur, Id. APP
Ms. Baishakhi Chatterjee.....for the State.

Dictated by Arijit Banerjee, J.

1. The petitioner complains of undue delay in progress of the trial. He says that he is in custody for about 2 years 8 months. Only 1 out of 14 charge sheet named witnesses has been examined. There is no possibility of an early conclusion of the trial. He renews his prayer for bail on the ground of delay.
2. While opposing the prayer for bail, learned Additional Public Prosecutor points out that commercial quantity of contraband items was recovered from the accused persons. Firearms were recovered from this petitioner. There is sufficient incriminating evidence against this petitioner.

3. Learned Advocate for the petitioner further points out that a co-accused person, namely, Asmaul Sk. was enlarged on bail by this Bench by an order dated August 19, 2024, in CRM (NDPS) 1157 of 2024. He says that the petitioner stands on a better footing than that other person, who had actually shot the victim.
4. We are not inclined to go into the merits of the case. We see that the petitioner is in custody for a long period of time. Article 21 of the Constitution of India guarantees to every citizen the fundamental right to personal liberty and speedy trial. There is no possibility of an early conclusion of the trial. Solely on the ground of delay in progress of the trial, we allow the petitioner's prayer for bail.
5. Accordingly, we direct that the petitioner, namely **Samirul Sk. @ Hasur** 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 at Malda, 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 said police station once in a fortnight until further orders.
6. 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 and/or commit any cognizable offence in any manner whatsoever.

7. 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.
8. The application for bail is, accordingly, allowed.
9. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)