

20.12.2024
Item no. 13.
Court No.29.
AB
(Allowed)

CRM (NDPS) 1518 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 Gangarampur Police Station Case No.143 of 2020 Dated 09.05.2020 under Sections 21C/22C/23C/25/27A of the NDPS Act

And

In the matter of : Pintu Paul

.....Petitioner.

Mr. Milan Mukherjee, Sr. Adv,
Mr. Biswajit Mannafor the Petitioner.

Mr. Bitoshok Banerjee,
Ms. Rituparna Sahafor the State.

Dictated by Arijit Banerjee, J.

1. Status Report filed by the State, be kept with the records.
2. The facts of this case are a little peculiar. The police raided a house alleged to be that of the petitioner at night, broke open the padlock and allegedly seized 55 bottles of phensedyl syrup containing codeine phosphate. This was some time on May 9, 2020. The sample allegedly collected from the seized articles was received by the State Drugs Control and Research Laboratory, Government of West Bengal, on September 14, 2021, as would appear from the Certificate of Test or Analysis under the NDPS Act issued by the Director of that laboratory. In other words, about 1 year 4 months

after the alleged seizure, the sample was sent to the laboratory. The sample was tested on March 2, 2023, i.e., almost 3 years after the alleged seizure. We find from the records that the syrup from which sample was allegedly drawn, expired in January, 2022. Therefore, the testing was made much after the expiry of the period.

3. That apart, there was nobody in the house when the seizure was made by the police. There is no independent witness to the seizure memo.
4. 4 out of 8 charge sheet named witnesses have already been examined. The Investigating Officer, in cross examination, has stated as follows:

"In the sketch map I did not identify the PO. I have not made charge sheeted witness to the neighbouring people of the PO mentioned in the index of the sketch map.

I did not collect any document to ascertain the ownership of the house from where the allegedly contraband recovered."

5. In view of the aforesaid, there appears to be reasonable grounds for believing that the petitioner is not guilty of the offence he is charged with. Of course, this is a prima facie observation only for the purpose of disposal of this bail application and this observation will have no bearing on the trial.
6. We further see that two other NDPS cases were initiated against the petitioner. One of the cases ended in acquittal of the petitioner. In the other case, the

petitioner was discharged. Therefore, we are of the view that the petitioner is not likely to commit any offence while on bail.

7. In view of the aforesaid, the restriction in Section 37 of the NDPS Act stands diluted. The petitioner is in custody for ten months. We are inclined to allow the petitioner's prayer for bail.
8. Accordingly, we direct that the petitioner, namely **PINTU PAUL** shall be released on bail upon furnishing a bond of Rs.25,000/-, with two sureties of Rs.12,500/- each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under the NDPS Act at Balurghat, Dakshin Dinajpur, and on further conditions that he shall not leave the jurisdiction of the Gangarampur Police Station and shall report to the Officer-in-Charge of the Gangarampur Police Station once in a week until further orders.
9. 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.
10. 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.

11. The application for bail is, accordingly, allowed.
12. 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.)